

# PLANNING COMMITTEE



**WEDNESDAY, 23 AUGUST 2023 - 1.00 PM**

**PRESENT:** Councillor C Marks (Vice-Chairman), Councillor I Benney, Councillor Mrs J French, Councillor R Gerstner, Councillor S Imafidon, Councillor G Booth (Substitute) and Councillor M Purser (Substitute)

**APOLOGIES:** Councillor D Connor (Chairman) and Councillor P Hicks.

Officers in attendance: David Rowen (Development Manager), Stephen Turnbull (Legal Officer) and Jo Goodrum (Member Services & Governance Officer).

## **P38/23      PREVIOUS MINUTES**

The minutes of the meetings of the 5 and 26 July 2023 were agreed and signed as an accurate record.

## **P39/23      F/YR21/1449/F THE LETTER B PUBLIC HOUSE, 53 - 57 CHURCH STREET, WHITTLESEY CHANGE OF USE OF PUBLIC HOUSE TO 3 X DWELLINGS (1 X 2-STOREY 3-BED HOUSE AND 2 X 2-BED FLATS) INVOLVING THE DEMOLITION OF REAR EXISTING EXTENSION**

David Rowen presented the report to members.

Members asked officers the following questions:

- Councillor Benney stated that it is his understanding that if a public house is currently trading and wishes to be converted then there is the requirement for it to be marketed in a certain way and over a period of time, so that it can be demonstrated that there is no use for it and that there is no loss of a community asset. David Rowen confirmed that this is the correct course of action. Councillor Benney asked whether those steps have been taken? David Rowen explained that when the application was submitted, the public house had been marketed as such and evidence had been provided to demonstrate that the marketing exercise had not been successful and, therefore, there was the justification for the conversion to a residential dwelling. He added that since then the premises has been sold and is now operating as a public house.
- Councillor Booth stated that it is his understanding that the policy states that if it is no longer economically viable to run as a business then the owner has to provide a business case and from the officer's report he notes that it has not been provided as part of the application process. David Rowen confirmed that is correct.
- Councillor Imafidon asked how long the marketing timeframe is and Councillor Mrs French explained that it is a two-year period.

Members asked comments, asked questions and received responses as follows:

- Councillor Benney stated that, in his opinion, the officer's recommendation is correct. He added that he does not believe that the premises has been marketed correctly and there should not be the loss of a community asset.
- Councillor Mrs French stated that she agrees with the points highlighted by Councillor Benney, and she added that the public house should remain as they are few and far between in Whittlesey and facilities such as these should be preserved.
- Councillor Booth expressed the opinion that he does not believe that any action has been taken to demonstrate that the premises is not unviable and as such the community asset

should be protected. He added that there are too many public houses which are closing across the country at an alarming rate and, in his view, the officer's recommendation is appropriate.

- Councillor Imafidon stated that he agrees with the comments made by other members.

**Proposed by Councillor Benney, seconded by Councillor Mrs French and agreed that the application be REFUSED as per the officer's recommendation.**

*(Councillor Gerstner declared that he was a member of Whittlesey Town Council's Planning Committee when this application was considered, and took no part in the discussion and voting thereon)*

**P40/23      F/YR22/0510/O  
LAND WEST OF 12 KNIGHTS END ROAD, MARCH  
ERECT UP TO 36 X DWELLINGS (OUTLINE APPLICATION WITH MATTERS  
COMMITTED IN RESPECT OF ACCESS**

David Rowen presented the report to members and drew their attention to the update report.

Members received a presentation in accordance with the public participation procedure, from Andrew Hodgson, the agent. Mr Hodgson stated that he is delighted that the officer has recommended the application for approval, and referred to the objection raised by March Town Council, which they have tried to address with them outside the meeting, one of which was overdevelopment but this is an allocated site for viable housing and the proposal has been planned at a scale which he feels is appropriate and will be subject to a review at the detailed stage of the reserved matters part of the application should permission be granted. He stated that March Town Council has also raised the issue of access, however, that has already been approved through the scheme for nine units on the adjacent site which the Highway Authority has already signed off.

Mr Hodgson explained that the site already has an established boundary and, in his opinion, it made sense to plan the proposal in a way that has already been developed and for it not to be part of the wider Broad Concept Plan (BCP) area, but for it to have its own access point and there will be two pedestrian and cycle links only through to the other Persimmon site. He added that those links will flow through to the proposed new school when it is built, and a decision was made not to have any vehicular access as it would have caused a rat run through to the Persimmon estate.

Mr Hodgson stated that with regards to the 25% affordable housing allocation, the applicants Cannon Kirk, are also responsible for the 9 units on the adjacent site and cumulatively the 25% makes up the total amount of affordable units to be provided across both sites.

Members asked Mr Hodgson the following questions:

- Councillor Mrs French expressed the opinion that she is delighted to see that the applicant is offering 25% of affordable housing, given the fact that they did only have to offer 20% and she congratulated the applicant.
- Councillor Gerstner asked whether the affordable housing mix will be distributed evenly across the site? Mr Hodgson explained that the reserved matters layout will be very similar to that which is shown on the indicative site plan, which shows two areas for the affordable housing.

Members asked officers the following questions:

- Councillor Mrs French stated that, in her opinion, she has never seen a condition 21 which has been applied to this proposal, which refers to removing permitted development rights on an outline planning application. She stated that she does not agree with the condition as it is unfair and precludes residents from adding a greenhouse or shed and would mean that there would be the need for a resident to have to apply for planning permission and she

feels it is an unreasonable condition. Councillor Mrs French asked for an explanation as to why such a condition has been imposed? David Rowen stated that the condition would be required due to the fact that within his presentation he had indicated that some of the dwellings will be quite close together, however, as it is an outline application that condition has been reconsidered and within the update report it has been decided that at this stage that condition can be removed, however, it may be a matter which will need to be reconsidered as part of the reserved matters application.

- Councillor Mrs French asked for an explanation with regards to condition 15? David Rowen explained that condition 15 had been requested by the Highway Authority to prevent residential access being blocked off by gates to the detriment of highway safety and it is a condition which is used for large scale developments on a regular basis and will have been included on most of the large scale residential schemes which have been brought before the committee over the past few years. He added, therefore, that the condition is necessary albeit with a slight amendment to the wording which was detailed in the update report.
- Councillor Booth made reference to the point raised by Councillor Mrs French with regard to the requirement of affordable housing only being 20%, but contained within the March Neighbourhood Plan it states 25% and he asked for clarity? David Rowen stated that the 2014 adopted Local Plan did have a 25% target within it and the Neighbourhood Plan was introduced and was consistent with that. He added that as part of the emerging Local Plan, a viability report was undertaken which concluded that south of the A47, 20% affordable housing delivery was viable which has been consistently treated as a material planning consideration over the last 18 months. He stated that had this proposal come forward with only 20% being offered then officers would be in a position where that would have also been agreeable.
- Councillor Gerstner asked where the nearest play area is situated? David Rowen stated that currently there is a play area further back along The Avenue, however, the proposal does fall within the wider development of the site and as part of the wider development of the strategic allocation and within that there will be play areas included.
- Councillor Purser stated that there is a footpath from Knights End directly to The Avenue where there is a play area.

Members asked questions, made comments and received responses as follows:

- Councillor Benney stated that he agrees with the officer's recommendation, and he also welcomes the 25% of affordable housing contributions which are in line with the emerging Local Plan. He added that there are no detrimental reasons to refuse this outline application and he will be supporting it.
- Councillor Booth stated that he agrees with Councillor Benney and added that the reason the application has come before the committee is due to the comments made by March Town Council, one of which is with regards to highways, however, there is a highways report which goes against the point raised by the Town Council. He added that other point that they have raised is concern with over development, but the proposal is part of the BCP. Councillor Booth stated that he will support the application.
- Councillor Mrs French stated that the new members of March Town Council made their decision without realising that the application was part of the BCP allocation.
- Councillor Purser stated that having lived in this area, there is a bungalow on the corner and his concern was the entrance being on the right-hand side of the bungalow but it has been moved round which allays his concern. He noted that there were terms put to the applicant originally and he has agreed to these in writing, which he feels is positive for this application.
- Councillor Gerstner stated that he notes that the affordable housing allocation is for 9 x 2-bed units, and he asked whether that is usual as, in his opinion, he feels it is restrictive for families to occupy. David Rowen stated that as the current application is only outline there is no detail on house types or layout and guidance from the housing team will be sought with regards to the appropriate mix that is required. He added that given the Council's success rate in delivering affordable units, he welcomes the 9 proposed units rather than nothing at all.

**Proposed by Councillor Purser, seconded by Councillor Mrs French and agreed that the application be APPROVED as per the officer's recommendation.**

*(Councillors Mrs French and Purser registered, in accordance with Paragraph 14 of the Code of Conduct on Planning Matters, that they are members of March Town Council but take no part in planning)*

**P41/23**

**F/YR22/1014/F**

**LAND SOUTH AND WEST OF BEATS LODGE, HOOKS DROVE, MURROW  
CHANGE OF USE OF EQUESTRIAN LAND (AND STABLES) TO BUILDERS YARD  
(SUI GENERIS) WITH OFFICE, INCLUDING ERECTION OF AGGREGATE BAYS,  
2.4M HIGH FENCE AND SLIDING GATES, THE FORMATION OF A SWALE, AND  
EXTEND EXISTING ACCESS (PART RETROSPECTIVE)**

David Rowen explained to members that the County Council has previously refused an application involving the processing of waste on this site and further correspondence had been received from the County Council earlier today which stated that activity involving waste may still be taking place and this is being investigated by the Environment Agency and also the County Council. He explained that the application in front of members has the potential to allow for activity at the site which could be construed as waste related and, therefore, there is a significant question mark over whether the application should be determined at a District Council level and in order for this to be established it is recommended to members that the application be deferred.

Councillor Mrs French stated that it is her understanding that members should look at what is in front of them today and not what might or might not be.

Stephen Turnbull, the Legal Officer, stated that, in his view, it is more to do with good practice and procedure rather than the merits or demerit of this application as there does seem to be elements of potential waste disposal, which the County Council are investigating and given that the scope of the application is quite broad and might well include dealing with waste he agrees with officers that the sensible way to proceed is to find out exactly what is going on at the moment and what the County's view is and defer the application and deal with the application when the facts are known.

Councillor Benney expressed the view that he cannot see what bearing the waste application has, they are two separate applications, it has been heard at County and was refused, but this application is for a builder's yard and he feels that the committee should determine it today. Stephen Turnbull stated there is no legal reason why committee cannot determine the application today, the view that he and officers took is it is good practice to defer it because members will know more of the factual background and the view of the County as waste disposal authority. Councillor Benney stated that this application is for a builder's yard and if there is illegal activity on that site this will be dealt with by County, this application is live, has been submitted since 2022 and he feels it should be determined today as this is looking at land usage and is this site suitable for a builder's yard.

Members agreed to determine the application.

David Rowen presented the report to members and drew their attention to the update report.

Members received a written representation in accordance with the Public Participation Procedure, from Debbie Fryett, in support of the application, read out by Member Services. Mrs Fryett stated that following her initial letter of support she remains very strongly in favour of this planning application, with the applicants being native to the village of Murrow rather than someone from outside the local area moving in. She finds some of the negative issues raised almost amusing and thinks the Planning Committee and local residents should take into consideration the number of businesses already operating within the vicinity of Hooks Drive, such as:-

1. Ostrich Farm
2. Doggy Daycare Centre
3. Originally ABC Meats - now a meat packing factory
4. A hot tub business
5. Farming/Agricultural Activity.

Mrs Fryett referred to the point raised regarding Hooks Drove being unsuitable for heavy traffic and Heavy Goods Vehicles, but she has lived in Murrow in excess of 30 years and to her knowledge there is no visible signage anywhere suggesting its unsuitability, with 99% of the time the applicant using Hooks Drove, Long Drove and Cants Drove as their preferred route of travel as do Adapt Bio Gas which is also the Cambridgeshire County Council preferred route. She feels there is already continuous movement of lorries, tractors/general farm machinery and trailers constantly using the very same route between 6am up to and including 10pm, 7 days a week, with there being daily deliveries to the existing businesses in Hooks Drove.

Mrs Fryett expressed the view that one final important point to also consider is if the encroachment of Cambridgeshire County Council land were to be removed, it would greatly improve the situation for all concerned. In summary, she emphatically feels that Fenland District Council should approve this application and allow another local business to develop and prosper, particularly given the current financial climate.

Members received a presentation, in accordance with the public participation procedure, from Matthew Hall, the agent. Mr Hall stated that the officer's report states that the application site was previously Grade 1 agricultural land and the applicant has advised him that the site has not been used for agricultural purposes for at least 20 years. He added that since 2015 there has been a stable block and a menage over part of the site which can be seen on Google maps.

Mr Hall explained that the site was overgrown when the applicant moved in and the menage was overgrown and there was permission in place for eight floodlights which is no longer required as part of the proposal before the committee today. He explained that the applicant was born and has lived in Murrow for the whole of his life, he drives lorries for a living to provide for his family and has purchased grab lorries and other plant equipment for his business.

Mr Hall stated that the site falls within Flood Zone 3, however, the Environment Agency have not raised any objection to the proposal, with the proposal not including any construction or buildings. He made the point that the applicant applied for a lorry operator's licence before moving onto the site three years ago which is still in place and the site does not have members of the public calling to purchase goods as all materials are delivered to site, with the lorries being stored on the site, leave the site to undertake deliveries or to work on sites and any waste is transported to Saxon Pit.

Mr Hall explained that the applicant undertakes emergency utilities work where there may be occurrences of burst mains, private work and work for contractors and homeowners by taking material away and delivering aggregates. He stated that the Highway Authority are now satisfied with the proposed access and position of the gates along with the visibility splays in both directions, following details from their highways consultant, with a speed survey also being undertaken and submitted to the Highway Authority, and made the point that along the same stretch of road the London Halal Meat Company is located, which was originally ABC meats and had been in operation for in the region of 35 years, and it currently has five heavy goods vehicles which visit that site each day.

Mr Hall stated that the application site is surrounded by vegetation which is all to be maintained and the area for the aggregate and the lorry bays will not be visible from the street scene. He made the point that there is local support for the application with 26 letters having been submitted from persons in Murrow, with the applicants living in one of the 5 dwellings in the area which could be seen in the presentation, with three of the other dwellings not objecting to the proposal and the remaining dwelling opposing the proposal but having reviewed its location the nearest point to that

dwelling is at a distance of 50 metres away with the aggregate bays being 90 metres away.

Mr Hall stated that looking at the reasons for refusal the site is located in Flood Zone 3 but it is not proposed to build any buildings and the Environment Agency who have been consulted on the application have no objections. In terms of elsewhere location, he made the point that Murrow is classed as a small village in the Local Plan and normally limited to small business opportunities, which this application is, and people are told that Fenland is Open for Business and this is a business application.

Mr Hall stated that the Highway Authority have confirmed the access and visibility splays are satisfactory but are concerned with regard to a lack of footpath and passing places, however, there are other businesses located down Hooks Drove, Long Drove and Cants Drove so this business would not be in isolation. He expressed the view that the applicant has been running his business since 2016 and has held a lorry operator's licence for 3 years, which he still possesses.

Members asked questions of Mr Hall as follows:

- Councillor Mrs French referred to the applicant running the business since 2016, which is 7 years, and asked how has this business has just come to light. Mr Hall responded that previously he was at a yard in Whittlesey Road, March and he was given notice from there and moved to this site.
- Councillor Gerstner referred to external lighting and asked if the applicant has given consideration to lighting in the area? Mr Hall responded that he discussed this with the applicant yesterday and no external lighting has been proposed but they would be happy to accept a condition so that can be agreed with officers.
- Councillor Marks asked how many vehicles does the applicant have on his operator's licence and is it just rigids or artics? Mr Hall responded that he believes the licence is for 5 and he has seen 4 vehicles on site all with rigid axles so he believes the licence is just for rigid axles but he is not 100% sure.

Members made comments, asked questions and received responses as follows:

- Councillor Benney stated that he views this as a solid business application and feels a lot of the reasonings on this have been dealt with on other applications of a similar nature as you cannot put a lorry yard with aggregates in the middle of a town, with this being the place for this to be. He stated that his biggest concern was LP16(e) which is the adverse impact on neighbours but there is only one neighbour complaining, with this neighbour being 100 metres away, making the point that the Travis Perkins yard in Chatteris backs right up to houses, with this being an industrial yard with lorries going in and out and there is 100 metres here which is far more than you would have in a town. Councillor Benney expressed the view that anyone who lives in the middle of the Fens has got to accept noise and dust, with there being a cornfield next door to this site, and anyone who has lived near a farm will know that in the Summer when you want your windows open you Sellotape them up because of the dust that comes from the combine and when you drill into the land you get a Fen blow so anybody who chooses to live in the middle of nowhere cannot really complain about dust and vehicle movements. He expressed the opinion that the anabolic digester which is not too far away, with the one at Chatteris being fed by fast track lorries running on red diesel to provide green energy for residents, is going to be fed by tractors and vehicle movements, with the vehicle movements from this application being dwarfed by the movements that will be made to the digester. Councillor Benney stated that he has visited the site and drove down Hooks Drove and there are passing places along this drove and he passed other businesses in this area and this application is for another business that fits, in his view, very well in the area and he feels members of public must think what is going on with a recommendation of refusal on this application. He reiterated that he views this as a solid business application that employs people and brings jobs, with the neighbour being the only concern but there is a cornfield that will bring dust and noise, and a few more lorries is not going to make a difference. Councillor Benney made the point that the Council is supposed to be Open for Business and looking to drive economic growth and support local

business and this is a business that needs support.

- Councillor Purser stated that most of the points he was going to make have already been mentioned by Councillor Benney. He feels it is creating jobs and in relation to smells from industrial burning, it has been mentioned that it was previously an equestrian centre and he does know that horses can create a lot of smells so questioned what is the difference and it is actually out in the middle of nowhere anyway. Councillor Purser stated that he can support this.
- Councillor Gerstner stated that he fully supports Councillor Benney's comments but feels that if approved conditions should be placed on it about lighting as per the Police report and also in relation to the operating hours because of the amenities of the residents.
- Councillor Mrs French stated that she has visited the site and there are passing places because they did encounter a vehicle coming down the drove and turning into the site. She expressed the view that it is in the middle of nowhere and it took them a long time to find the site, with it being the ideal place for this application to go. Councillor Mrs French expressed the opinion that there would only be 5 lorries a day and she does not see much of a problem, the roads are not wonderful but the County Councils roads in Fenland are not wonderful anywhere. She made the point it is a business, she is glad they moved out of March because that was an eyesore and feels this is the right place for this proposal.
- Councillor Benney referred to Councillor Gerstner's comments regarding opening hours but he believes the agent said that they undertake utility work and with utility work that can be in the middle of the night if there is a breakdown or when you are called out so to put restrictions on this would be limiting the business in terms of utility work. He feels that general opening hours would be reasonable but for utilities this needs to be fairly open in a condition as this could restrict a business that members are trying to support.
- Councillor Purser agreed with the comments of Councillor Benney.
- Councillor Marks stated that he knows the area and is aware of the lorry movements in this area, with the applicant having an operator's licence for 5 lorries and if they have worked for the past 3 years with no complaints it does not seem there is any issues regarding vehicle movements but he would be very mindful of putting restrictions on operating times as what the committee view as reasonable others may not and there may be horse boxes going up and down this road from neighbouring properties also. He would support the application, but being mindful of any time limits being applied, which he feels are not required.
- David Rowen referred to mention of the site being in the middle of nowhere but from the plan it clearly shows residential dwellings in the immediate vicinity, it is clearly not in the middle of nowhere. He stated that there are 4 letters of objection from address points along Hooks Drove so people who are in the immediate vicinity and with respect to amenity the Council's Environmental Health Team have objected to the application as well so they are flagging up the potential for fairly serious amenity impacts arising from the application. David Rowen stated there are also the Highway Authority concerns about the application and whether this is an appropriate application for this type of activity and the size and nature of vehicles involved. He feels the committee have to question whether they are suitably qualified to go against the professional advice of Environmental Health and Highways.
- Councillor Marks made the point that when a business has an operator's licence this must have had input from Highways regarding number of vehicles and vehicle movements, with it being deemed as suitable so asked why now is it being said that it is not suitable? David Rowen responded that he does not know the ins and outs of vehicle licensing regimes and all he can comment on is land use planning, with a comment from the Highway Authority saying they object to the application and it is not suitable location.
- Councillor Benney referred to the comment about being unqualified but made the point that this is the process, it is the officers job to write reports, answer questions and offer information and members of the committee make the decision, having received training and it is why members are here, whilst members of the committee may not have a degree in Planning they are here to represent the people of Fenland and, therefore, in his view, the committee is qualified. He feels it is a strong term to use that the committee is not qualified as it their job to make the decisions. David Rowen responded that the point that he was making was that the committee has got particular professional advice from specialists in

terms of noise, dust, amenity issues with Environmental Health and also professional experts in terms of highway safety, who have provided the Council and committee with their advice and if members wish to go against this that is members gift to do so but they are the professional experts.

- Councillor Mrs French referred to the comments of Environmental Health and asked what does it mean as land is not being taken away from the residents? David Rowen responded that loss of amenity refers to the introduction of an industrial process in close proximity in a rural location with low background noise levels so Environmental Health have got concerns about the noise that would be generated by the development and the resultant loss of amenity of nearby residents when enjoying their property. Councillor Mrs French made the point that this is 100 metres away.

**Proposed by Councillor Benney, seconded by Councillor Mrs French and agreed that the application be GRANTED against officer's recommendation, with authority delegated to officers to apply conditions in consultation with the Proposer and Chairman.**

Members did not support officer's recommendation of refusal of planning permission as they feel under Policy LP3 no building is taking place in the open countryside, that the proposal would not lead to an unreasonable loss of amenity to nearby residential properties under Policy LP16 (e) as the distance between the working part of this site and the neighbouring property is sufficient, in relation to Policy LP15 and LP16 the site is in a rural location and a sustainable transport network cannot be created in location such as these, with the business having been in operation in this area since 2016 and under Policy LP14 whilst the site lies in Flood Zone 3 nothing is being built in this proposal as it is a lorry yard. Members feels that the reasons for refusal can be mitigated against or the benefits of the proposal override the reasons.

*(Councillor Booth registered, in accordance with Paragraph 14 of the Code of Conduct on Planning Matters, that he is a member of Wisbech St Mary Parish Council and when the waste application came before the Parish Council and it was recommended for refusal he was involved in that discussion but the Parish Council did not discuss this application as it was when the Queen passed away so the meeting did not take place where it would have been discussed and on that basis given the similarity between the applications and what the officers have said, he retired from the meeting for the duration of the discussion and voting thereon)*

*(Councillor Benney declared that he knows the agent for this application and he has undertaken work for him and also worked with him on the Growing Fenland project at Chatteris, but he is not pre-determined and will approach the application with an open mind)*

**P42/23**

**F/YR22/1084/F**

**LAND SOUTH WEST OF 92 HIGH STREET, CHATTERIS**

**THE SITING OF A MOBILE HOME FOR RESIDENTIAL USE AND ERECTION OF AN ANCILLARY DAY ROOM**

David Rowen presented the report to members.

Members received a written presentation, in accordance with the public participation procedure, from Jodie Chittock, a supporter, read out by Member Services. Mrs Chittock stated that she is the direct neighbour and only neighbour to 84b, living at 84a, and understands that planning permission keeps getting denied for her neighbours but feels that the impact this is having on her family is not being understood as she suffers from extreme anxiety and panic attacks, with her property being perfect for her as it is out of the way. She explained that her anxiety has been worst this last year and she feels unsettled in her home because if Mr and Mrs Steer are not granted approval they will sell the land and it will come with no planning permission so, in her view, the person who buys it will probably use it as a dumping ground or scrap yard or something undesirable.



Mrs Chittock expressed the view that whoever buys the site will almost certainly not be respectful to her family and will keep going up and down at great speed to get to their land putting her children who play at risk, which is a massive worry to her and her husband, and whoever buys the land is most certainly to use it for their own pleasure and not have any cares for the surrounding properties. She expressed the opinion that it is a lovely family that currently own the land who just want to settle there and have a place to call home, who are respectful and typically park on the road so there is rarely any cars driven past her property so her children can be out the gate playing on their bikes.

Mrs Chittock expressed the view that she cannot ask for better people to be her neighbours, with her children and their children playing together and have become really good friends. She does not think what they are asking for is at all unreasonable so asked that the decision takes her family into consideration because it is affecting them also, with her fully supporting the application as a direct neighbour.

Members received a presentation, in accordance with the public participation procedure, from Nat Green, the agent. Mr Green made the point that the committee is here to decide the matter on planning issues only and this application is for the siting of a mobile home for residential use and the siting of an ancillary day room. He referred to the application being recommended for refusal, however, the officer's report in its recommendation has, in his view, deep flaws, firstly being the dismissal of his clients gypsy status and despite a comprehensive family history and personal circumstances being provided the Local Planning Authority claims that a Barrister's opinion was sought and it concluded that they were not gypsies, asking where is this Barrister's opinion as at the very least it should have been released to his clients as if a report was written about you, you would want to see it and further questioned where is report from the Gypsy and Traveller Liaison Officer.

Mr Green expressed the view that the Council cannot demonstrate a five-year land supply of traveller pitches and has a shortfall of five pitches to 2026, therefore, personal circumstances are irrelevant to the application as gypsy pitches are needed and this application is one of them being very sustainable and if it subsequently turns out the residents are not gypsies that is a second order problem as this is an application for the use of the land and not an application about the residents. He referred to the reasons for refusal, one being access and stated that he submitted a 51 page report by the Hurlstone Partnership 10 months ago, which is on the Council's Planning Portal, and clearly supports their case and the Highway Authority were invited through the Case Officer to comment on it and they refused so that is why there is no reference to it in the officer's report. He stated that members might wish to read that report, it is one thing to have a professional difference of opinion but another to demonstrate a cavalier dismissal of a thoroughly argued report, which, in his view, amounts to a material consideration that has not been addressed and it would not look good at appeal.

Mr Green referred to the historic environment reason for refusal, which is recommended because it would build across two medieval burgage plots, in his view, that might be a valid reason but last year just 8 doors up 6 houses were approved to be built across the burgage plots and in that application the Case Officer states "the development would result in the loss of the burgage plots in this location which would amount to less than substantial harm to the historic environment, however, the benefits of introducing 6 dwellings in this highly sustainable location which is well connected to the town centre and nearby services and facilities coupled with the improvement the development would make to the area both in terms of visual impacts through the reuse of a currently disused and unkept area of land are considered to outweigh this harm" so he feels that this applies to this development also, again reiterating this would not look good at appeal either. He referred to the third reason for refusal, bin storage, and expressed the opinion that officers want committee to refuse this application because bins would have to be dragged an extra 15 metres beyond the recommended distance of 30 metres but the bins for the application site are already collected by a Council refuse vehicle every week along with everyone else's as it travels up and down the lane and this was confirmed in an e-mail to the Case Officer on 21 October 2022.

Mr Green stated that it is understandable for committee to generally follow officer's recommendation but no one has a monopoly over being right and in this instance he feels there are sufficient flaws in the report suggesting that members should approve the application subject to the usual gypsy and traveller site conditions, with his client happy to comply with any reasonable conditions.

Members asked questions of Mr Green as follows:

- Councillor Booth referred to the gypsy and traveller status and that he has not seen the report but he assumes that evidence was provided as part of the application and was he asked for additional evidence to support the claim? Mr Green responded that they submitted a family history and full personal circumstances to the Case Officer. Councillor Booth asked for clarification on whether additional information was provided or asked for? Mr Green stated that no additional information was requested.
- Councillor Imafidon asked for clarification that he said that the Council already collects the bin from the property? Mr Green confirmed this to be correct. Councillor Imafidon asked how long the applicants have lived at the property and do they live there already? Mr Green responded that the applicants do live there already but he cannot say precisely how many years but it is some years.
- Councillor Marks referred to the access, he has looked at it and it is a concern to him, with last week or the week before there being a vehicle that had been hit and there have been at least two other accidents along this stretch of road, whilst he recognises there is nothing that can be done about making the access better which is his concern, he asked how many vehicles will there be on this site? Mr Green responded a maximum of 2. Councillor Marks asked what type of vehicles, would they be vans or a standard car? Mr Green responded that a standard gypsy and traveller condition assuming it was imposed would be a maximum of 3.5 tonnes so this would be nothing more than a transit van. Councillor Marks asked if a business would be run from the site? Mr Green responded that it would not but this could be conditioned too.
- Councillor Booth stated that he assumes the applicants are using the access as a vehicular access currently so it is not really going to be any increase in vehicles. Mr Green agreed.

Members asked officers questions as follows:

- Councillor Mrs French stated that she has listened to what Mr Green has said and asked for an explanation about the report and why committee has not seen it. She also referred to Planning Policy for Traveller Sites - Policies and Criteria and asked why is there not some kind of information from the Council's own Gypsy Officer making the point that the issue keeps getting raised about the lack of a policy and asked if the Council is ever going to get one? David Rowen confirmed that the Council still does not have a specific Gypsy and Traveller assessment in place so there is an acknowledged position that the Council has an unknown need for such sites and he is not aware when this assessment is going to be available. He stated that the information submitted with the application around personal circumstances does contain personal information, which raises an issue in terms of confidentiality as there would be in relation to the Barrister's advice in respect of this but the information submitted with the application has been assessed by the Barrister and their conclusion was that this did not demonstrate that the applicant met the definition. Councillor Mrs French stated that personal circumstances has been raised on previous applications and it has been provided confidentially to members so she is surprised that it has not been provided this time but she is more concerned about not seeing the Barrister document.
- Councillor Booth referred to the Gypsy and Traveller Housing Needs Assessment and he was told some time ago as part of the Local Plan Working Party it would be available on or around the second public consultation but it is not there and there have been further delays to the Local Plan so it does not seem it is being delivered very quickly. He referred to Councillor Mrs French asking why members have not got the report from the Council's officer and why did the Council have to go to a Barrister and from reading the report it says there is not sufficient evidence so if there is not sufficient evidence does that mean to say it

could be rectified if further evidence was provided? David Rowen responded that the reason that Barrister advice was sought was so that the Council could deal with this in as a robust manner as possible to get a legal opinion to fully address this matter.

- Councillor Mrs French made the point in that David saying robust the application was submitted in 2022 so she does not think 10 months down the line is very robust for determining a planning application. She stated that she does have concerns about this application, she can see both sides and sympathises with the applicant, but members do not have this report and she believes as decision makers committee should have the report and she does have concern with regard to highways and the access and feels the application should be deferred so members can see the confidential information. David Rowen stated that if members wish to defer the application to receive the confidential report that is a course of action that can be taken and he would have to revisit the report and advice received to consider what is or is not disclosable. Councillor Mrs French stated to be fair to the applicant and the committee a deferment is, in her view, the correct course of action as if it is refused the applicant has the right to appeal and that takes months.
- Councillor Marks asked if it was deferred and the report was provided to committee would it be given in its entirety with the agreement of the applicant as opposed to having a cut document. David Rowen responded that he would not be able to answer this at this point in time. Stephen Turnbull added that this document is legal advice to the Council, it is not an external report which informs the public planning process and there are very sound reasons why normally those are confidential because the Freedom of Information Act recognises that public bodies need to have their own legal advice and not have to go public on that advice every time they obtain such advice. He stated that it may well be that it should not be disclosed other than to members on a confidential basis, with the applicant free to get their own legal advice and they may possibly have done this so it is a matter of confidential legal advice to the Council not a document that is public and the law recognises that such documents should be confidential. Councillor Marks stated that he understands that what is being asked for is the committee only to be able to see this document. Councillor Mrs French stated that she is more concerned that if information has been passed on regarding the gypsy status and that has not been clarified so it would be wrong for committee to make a decision today without having further information and especially from the Council's own Gypsy and Traveller Liaison Officer.
- Councillor Booth added that it is the way the report is worded about sufficient advice and is there further evidence that can be provided that will clarify the situation, it does not appear to be from what has been said that there has been much engagement with the applicant regarding this issue and as Councillor Mrs French has said the Council does have its own officer who should be able to give members an opinion. He expressed concern regarding other matters around the bins and vehicular access which are already in situ but are being used as reasons to refuse so how can these be reasons if the use is already established? David Rowen responded that the issue of the bins would need to be reviewed as he does not have that information to hand to give members any advice on this, however, with regard to the issue of the access if the site is being occupied without planning permission which seems to be the case then it is an unauthorised situation and the advice of the Highway Authority within the application report would be relevant as it would be an intensification of the use of a substandard access, it is a key issue on whether this is already taking place or it is a future occurrence, and whether the lack of visibility is acceptable or not as the Highway Authority do not think it is.
- Councillor Imafidon stated that there are other properties as can be seen from the photos in the vicinity and some of them he believes use the same access, if it not an issue for them why should it be an issue for this site? David Rowen responded that as indicated it is the intensification of the use of that access which is a substandard access which has arisen as an historic quirk and whether that can accommodate any further vehicle movements and would having more vehicle movements up and down utilising that substandard visibility poses a risk to highway safety, which the Highway Authority think it would. Councillor Imafidon stated that he understands this but asked what difference it would make if the current users of that access just increase the number of vehicles they have, it will be same

result? David Rowen responded that it potentially would but members need to remember that if you then have a third residential unit using this access and those properties also further intensify their own vehicle movements that cumulatively results in intensification to the detriment of safety.

- Councillor Booth made the point that there is much talk about intensification but members have heard also this site is being used, although without the appropriate consent, for some time so is it intensification if it is currently being used and these are the answers that are needed together with how long the applicant has been on the site, which will give committee a clear indication of, particularly in relation to highway safety, about how much of a risk it poses if they have been living there for quite some time then that would indicate that the risk is probably minimal.

**Proposed by Councillor Mrs French, seconded by Councillor Purser and agreed that the application be DEFERRED for members to receive the information on personal circumstances and the Barrister's opinion on gypsy status together with a report from the Council's Gypsy and Traveller Liaison Officer, whether there is further evidence that substantiates the applicant's claim, to resolve the issue around the bins, whether there will be intensification of the access and how long the applicant has lived on site to assess potential risk and clarification on where the applicant is currently living on site.**

*(Councillor Benney declared, that the applicant is the relative of a fellow member of Chatteris Town Council, and retired from the meeting for the duration of the discussion and voting thereon)*

**P43/23      F/YR22/1416/O  
LAND TO THE EAST OF 114 MAIN ROAD, PARSON DROVE  
ERECT UP TO 4 X DWELLINGS INVOLVING THE FORMATION OF A NEW  
ACCESS (OUTLINE APPLICATION WITH MATTERS COMMITTED IN RESPECT  
OF ACCESS)**

David Rowen presented the report to members and drew attention to the update report that had been circulated.

Members received a presentation, in accordance with the public participation procedure, from Gareth Edwards, the agent. Mr Edwards stated that the application has the support of all the standard consultees including Highways and the Parish Council, with the Parish Council having an approved Neighbourhood Plan which this proposal is consistent with which has led to the support of the Parish Council. He advised that the drawings have been revised to show the required visibility splays that have been set out by the Highway Authority and the access road proposed is to be controlled by a management company which will enter into an agreement with the Council's refuse collection service to allow access to all properties so it is consistent with the requirements of Recap.

Mr Edwards stated that they have provided a full turning head for both refuse vehicles and fire appliance vehicles which will allow all vehicles to enter and exit the site in a forward gear. He expressed the view that the form and character is consistent with this part of the village and there are a number of in depth developments on this side of Main Road, such as Springfield Gardens, Ingham Hall Gardens, Brewery Close, John Bends Way, Lakeside and Newlands Road, all being off Main Road and on the proposals side of the road, with there being further comprehensive developments after Silvers Lane on this side of the road heading out of the village, such as Patricks Way and John Pecks Close.

Mr Edwards expressed the opinion that this shows the development will not undermine the prevailing form of development in the village but is consistent with it and this can also be seen with the adjacent property known as The Silverings, 114 Main Road, which as his site plan shows sits further back than the new properties that have been built on Main Road either side of it. He made the point that Parson Drove is a limited growth village under LP3 where a small amount of

development and new service provision will be encouraged and permitted in order to support their continued sustainability but less than what would normally be in a growth village, with such development being appropriate as a small village extension and he would argue that this is exactly what this site will be and in an email from the former planning officer in March 2023 it was stated that they were overall happy with the scheme subject to the additional requirements that were set out by Highways so this was forwarded to the applicant so when it was not going to be a delegated approval but coming to committee with a recommendation of refusal they were somewhat shocked.

Mr Edwards stated that this is an outline application with only access reserved, with the indicative layout showing a single point of access which will allow two vehicles to pass along its entire length so it should not add to vehicles having to wait at the junction on Main Road. He feels the plots are likely to be purchased by self-builders which has happened largely to the plots at the front of the site and as the sequential test they have produced states there are no other sites in the village which can accommodate this number of dwellings and a quick check on Right Move this morning showed there were only two individual plots available in the village, one of which is set behind the village Church in a tandem form of development.

Mr Edwards expressed the opinion that the proposal will look to use all existing main services including the foul sewer and surface water will be contained on the site with soakaways designed to BRE365 following a soakage test and will be approved as part of the Building Regulations application. He feels the reasons for refusal have been addressed in that the form of development is consistent with the prevailing form of development in this part of the village and on this side of the road where there are a number of comprehensive developments, the visibility splays have been shown on the drawings these are either within the footpath that has been constructed as part of the application at the front of the site or the highway verge, the roadway proposed will provide for access to all properties to overcome Recap concerns and an agreement will be made between the management company and the Council's refuse collection, it also comes with the support of the Parish Council and is consistent with the approved village plan. He requested approval of the proposal with the conditions deemed appropriate.

Members asked questions of Mr Edwards as follows:

- Councillor Benney referred to Mr Edwards mentioning that the proposal was going to be approved and then it was not and asked if this is correct? Mr Edwards responded that there was an email from the officer who stated that she was happy with the proposal subject to the changes to the visibility splays at the request of Highways. Councillor Benney asked if those amendments were submitted and accepted? Mr Edwards stated the amendments were submitted providing the visibility splay that Highways required and he had not received anything to say that it was not acceptable.

Members made comments, asked questions and received responses as follows:

- Councillor Gerstner stated that he very adverse to using Grade 1 and 2 agricultural land as this country should be feeding itself and not relying on other countries, with there already being some erosion on this field already and it looks like the proposed plan would further erode away very good arable land.
- Councillor Mrs French referred to the Neighbourhood Plan which was agreed in 2019 and seems to conform with their policies and is something the Parish Council want to support so expressed concern on what has been heard from the applicant's agent that the Neighbourhood Plan is not being looked at as well.
- Councillor Purser expressed concern over the entrance as Main Road in Parson Drove is a very fast road, although it is not meant to be, and a bit of a rat run and there used to be lots of high hedges in that area so coming out of roadways could be quite dangerous.
- David Rowen referred to the Neighbourhood Plan and made the point that the site is not allocated in the plan, with the Neighbourhood Plan effectively conforming with the Local Plan in that village extensions in Parson Drove will be acceptable where there is not a detrimental impact on the character of the area, which has been identified here with the officer view that because of the tandem nature there would be detrimental impact on the

character of the area. He stated that the recommendation is entirely consistent with the policies of the Neighbourhood Plan.

- Councillor Mrs French expressed concern over the agent stating that he was under the impression that this application was going to be approved subject to further information on the access and the opposite has happened. David Rowen responded that most agents are aware that if they get advice from an officer that is the officer opinion and can be subject to change when more senior officers view the proposals, it is regrettable but it does happen but officers try to be as consistent as possible with the advice given. He stated that there has been a transient nature in terms of staffing in the last 6-12 months and interpretation of Fenland policies some officers are not as familiar with but there is a recommendation in front of members on the basis of the assessment contained within the report.
- Councillor Gerstner referred to the report conclusions which states that insufficient information is provided to demonstrate suitable visibility splays can be provided for the required access to the Main Road. David Rowen responded that the update report that has been circulated does pick up on highway safety and the agent has submitted a further plan with demonstrated visibility splays to address the concerns raised by the Highway Authority, however, the Highway Authority commented on 18 August, at the end of last week, saying that the 2.4 metre by 120 metre visibility splay has been shown but does not appear to be fully contained within the application boundary so there is still question marks over whether the appropriate visibility can be achieved.
- Councillor Benney questioned that what is being said is the visibility cannot be achieved because of land ownership issues? David Rowen responded that Highways are saying that it involves third-party land so it is not within the applicant's control and not within the highway boundary. Councillor Benney stated that this has come before the committee previously where land ownership is not a planning consideration so, therefore, if this is approved and the visibility splay could not be achieved through negotiations with third parties it could not be developed. David Rowen responded that land ownership is not a planning consideration but there is no indication that the third party would be willing to enter into any agreement, the land is presumably not contained within the red line boundary and if members were minded to grant the application today then something is being granted that members do not know can be delivered which is not really the way to be dealing with applications notwithstanding that the officer report says there are in principle fundamental character issues arising from the application and as such the visibility issue has not been pursued any further. Councillor Benney expressed the view that character is a subjective opinion and applications have been passed previously where the applicant has not been in control of the land because land ownership is not a planning consideration and if the agreement does not come forward the development just does not get built. David Rowen responded that an application could be made to build on someone else's land but a red line would have to be placed around the application site and the appropriate notice would need to be served, which has not happened in this instance.
- Councillor Mrs French expressed the view that more information is required. David Rowen responded that as indicated earlier given the fundamental concerns that there is from a character point of view the visibility issue has not been pursued and if members wish to look more favourably on the application from a character perspective that is a matter that can potentially be deferred to resolve this situation bringing the application back to committee.

**Proposed by Councillor Mrs French, seconded by Councillor Purser and agreed that the application be DEFERRED to resolve only the access issue. Members do not feel that the proposal would be detrimental to the character and appearance of the area.**

*(Councillor Booth registered, in accordance with Paragraph 14 of the Code of Conduct on Planning Matters, that he is a member of Parson Drove Parish Council and was present when this application was discussed, and retired from the meeting for the duration of the discussion and voting thereon)*

David Rowen presented the report to members.

Members received a presentation, in accordance with the public participation procedure, from Peter Humphrey, the agent. Mr Humphrey stated that the application is for Permission in Principle (PIP) for nine dwellings on a former pig farm, he has had numerous meetings with his clients' representative which is Ed Tabner from Chefins who is acting on behalf of the Risely family and he has made enquiries independently to relet the buildings and the Risely family contacted him so he had a meeting with them, Mr Tabner and an accountant and he suggested that a residential use would be better than reletting it so they left him to make the planning application. He stated that the site is currently covered with old pig sheds and the principle of development in depth or where there has been agricultural has already been set on the site.

Mr Humphrey expressed the view that the application is supported by most of those living next to the site, referring to the smells in the height of Summer from pigs, which are not particularly pleasant, although he appreciates that this is not a reason for approval. He expressed the opinion that the site is at a crossroads, it can be developed for residential or it can go back to its former use and since Mr Risely senior died the site has been unused but it clearly needs something doing with it.

Mr Humphrey made the point that the Parish Council agree in principle with the proposal, Environmental Health support the application having no objection, the Environment Agency ask for a Flood Risk Assessment at the technical stage submission but in principle it has no objection and Highways have no objections, with the development being in walking distance to Manea train station and all facilities in the village. He stated that Manea is a growth village where development in the existing urban area or as a small village extension of limited scale as appropriate is supported.

Mr Humphrey referred to Paragraph 120 of the NPPF 2021, which states that substantial weight should be given to the value of using suitable Brownfield land and whilst the site is not Brownfield in the true term as it is agricultural a planning application could be made to convert the barns to residential and then they could apply to have it redeveloped as a Brownfield site. He feels the development would contribute towards the sustainability of the settlement and not harm the wide open character of the countryside as it is already developed.

Mr Humphrey confirmed that if approved there will be wheel washing facilities and reading the letters of support for the application he suggested the community benefit of not having smells and associated problems with a pig farm outweigh those of the site being in Flood Zone 3, with there being mitigation measures for this. He stated that the application has been a long time coming and the Parish Council and others have said to him when was this application going to be submitted so he welcomes the committee's support.

Members asked questions of Mr Humphrey as follows:

- Councillor Mrs French asked how long has it been since pigs were kept on the site? Mr Humphrey responded that it is five years. Councillor Mrs French made the point that noise, smell and contamination are material planning considerations.
- Councillor Booth asked why the application has been submitted as a PIP rather than an outline application? Mr Humphrey responded that it is cheaper and quicker.
- Councillor Booth referred to the sequential test not being appropriate and asked what the response to this was? Mr Humphrey responded that on early PIPs flood risk was not an issue but since more applications have been submitted it has been deemed a material consideration but there can also be a community benefit which can offset flood risk and he believes that the benefit of the removal of the pig farm far outweighs the flood risk harm

that could exist.

- Councillor Booth referred to the officers saying in the report that the proposal results in the loss of employment but the site is not active at the moment so he assumes there is no employment? Mr Humphrey responded that there used to be one pig farmer but there is no employment at present. He stated that there is the opportunity to convert the site to employment uses but they feel this would be problematic in its location.
- Councillor Benney asked what other pieces of land in Manea have been looked at for the sequential test and are there many pieces of land in Manea that would be suitable to take this size of development? Mr Humphrey responded that there are not, the flood risk is drafted ready to be submitted if this proposal is approved and no other land can be identified at present but this will have to be undertaken for the technical submission.
- Councillor Marks referred to the aerial photo and asked if there is a reason why the furthest barn has not been included in the application? Mr Humphrey responded that it would exceed 1 hectare which is the maximum size allowed for a PIP. Councillor Marks questioned whether they would be coming back to ask for further development? Mr Humphrey advised that he has no instructions but it is a possibility as once the principle is established he has found that it is sometimes as easy to submit a full application as opposed to a technical application but they are trying to establish if officers/Planning Committee would prefer to see this as residential, if they would he thinks this area may be included in the next application as they would not develop nine and leave one pig shed. Councillor Marks asked if this area is developed how many more houses does he believe this area would accommodate? Mr Humphrey responded one but then the affordable housing threshold would be met.
- Councillor Benney stated that if this is approved he would be pleased to see the subsequent application submitted with contributions and 20% affordable housing which he is sure that Mr Humphrey will be very willing to offer as he was very generous on a previous application before committee. Mr Humphrey advised that he takes this on board but if this is approved and another application is submitted it will come to committee with a recommendation of refusal as it is a new application, not the technical support of this one if approved, so a balanced view will be required on what the decision is today and then there is the risk of there being different committee members with different opinions so it has to be weighed up but the chances are they would come back with an application for a slightly larger site to include all the buildings and a contribution.
- Councillor Purser expressed concern about a lack of footpath going from this site into the village and asked if this is correct? Mr Humphrey responded that he believes there is a footpath but there is one the other side of the road.
- Councillor Purser referred to the possibility of contaminated land. Mr Humphrey advised that there could well be and they will have to produce a contamination report as pigs will have produced ammonia that will have leached into the soil.

Members asked questions of officers as follows:

- Councillor Booth referred to the sequential test and that would normally be covered under the technical guidance so on that basis what are the concerns, is it because it cannot at this moment prove that there are no other more suitable sites? David Rowen responded that national planning policy states that sequential tests should be applied to developments in Flood Zone 3, which is not a discretionary policy, and a sequential test has been submitted with the application which incorrectly rules out a number of sites which would be deemed as being alternately available of approximately 60 plots which would be sequentially preferable and the officer view notwithstanding the other issues of the application recommends the application should be refused. Councillor Booth questioned whether these other sites were for 9 plus properties? David Rowen advised that the adopted Supplementary Planning Document in relation to flood and water states that a comparable site is any site which can individually or cumulatively take the development. He stated that one of the applications that has been discounted is for 29 dwellings, there are several that are single plots or two plots that have also been discounted so there is a range of plots that are available within a range of developments which would be sequentially preferable.



- Councillor Marks referred to the David visiting the village when flooding occurred two years ago and they went around the village where the flooding was in Flood Zone 3 and it was nowhere near this site, it was almost  $\frac{3}{4}$  of a mile away as the crow flies and there has been another application at the end of Westfield Road where members were told Flood Zone 3 and it cannot be built on and the property is so far out of the ground as they have undertaken mitigation but again it is on a hill and if the water ever floods everyone is going to have problems. He asked if officers are not being a bit harsh on this application for development as it lies in Flood Zone 3? David Rowen responded that this is what national policy says that authorities are supposed to do and there is a legal duty to consider planning policy. He stated that in terms of other sites within the village that may have experienced flooding he is not sure what the source of that flooding was. David Rowen made the point that in terms of mitigation this is a PIP application so it is broad land use that is being looked at and there are no details of flood mitigation nor can they be considered. Councillor Marks asked in his experience could this be mitigated against by raising the land level? David Rowen responded ultimately any site can be mitigated from flooding if you raise it high enough but that is not the thrust of national policy, which is to prevent development in Flood Zone 3 in areas that can flood in the first place irrespective of mitigation.
- Councillor Mrs French stated that she sits on the flood group at Cambridgeshire County Council and was heavily involved with Manea after the December 2020 floods and she assured members that this part of Manea did not flood.
- Councillor Booth made the point that the Environment Agency maps are years out of date and do not reflect the reality. He referred to 1.3 of the officer's report where it is stated that this proposal is out of character for this part of the village being in-depth but about 100 metres further along the road there is Charlemont Drive which is an in-depth development so he has concerns about this observation and looking at properties along Station Road they are not all on the frontage, some are set back, so there is quite a range of different types of architectural styles. David Rowen responded that his reading of Paragraph 1.3 is that while officers acknowledge that the character is predominantly frontage the application site is something of an exception, the buildings are not visually attractive and the paragraph concludes that the redevelopment of the site for housing may be appropriate and potentially more compatible with the adjoining residential use. He stated that in terms of architectural merit there are no architectural designs submitted so it is difficult to comment.

Members made comments, asked questions and received responses as follows:

- Councillor Benney questioned whether Manea wants a pig farm or does it want some homes, the site is a mess and whilst this is not a reason to approve, do people want a load of derelict buildings or some nice houses. He feels the only reason for refusal is Flood Zone 3, there may be other sites in Manea that would take this development such as two sites in Westfield Road but they are not being developed and why should these sites be sitting there blocking this site as this is what a sequential test does because if those people do not want to bring those sites forward then that could mean until those sites are built out this site would not be acceptable. Councillor Benney feels there is an application in front of members that does bring community benefit, he would not want to live next door to a pig farm and he is sure that the people of Manea deserve better than a pig farm if indeed anybody would take it on as this. He feels that all members are looking at is Flood Zone 3 and whether this brings community benefit and improves Manea and, in his view, it does, therefore, the community benefit does outweigh policy, flooding can be mitigated against, it will be safe to live in and a PIP application just changes the land usage, with residential being a much better use of land than derelict buildings and a potential pig farm.
- Councillor Gerstner agreed with the comments of Councillor Benney, the proposal would be beneficial to Manea but members do have to be mindful of Flood Zone 3 as there has been plenty of instances in Fenland where development has been built on or adjacent to Flood Zone 3 in much worse cases. He requested that if this is approved that the subsequent application includes an element of amenity space.
- Councillor Booth stated that whilst he agrees with the comments made the issue committee has is that the NPPF is telling members that it should not be approved until the sequential

test is passed, which officers are saying it has not and it looks like the applicant is ready to move on the development very quickly so it would be this committee going against national policy as officers hands are tied on this but it highlights the issue with the NPPF and the fact the flood maps are out of date and need to be updated.

- Councillor Mrs French stated that she agrees with Councillor Booth but members have to weigh up what is the benefit and the benefit is to get rid of that mess.
- Councillor Marks stated that he lives locally on Charlemont Drive which is in Flood Zone 3 and on a hot summer's day Mr Risely used to clear his pigs out and residents could smell it for about 2 days, with there being in excess of 1500-2000 pigs. He made the point that the site is now standing derelict, there is still a rat infestation and to get rid of those derelict buildings as you come into Manea would be a good thing as this is the first thing you see. Councillor Marks stated that there has not been flooding in this end of the village in the last 18 years and although it is supposed to be Flood Zone 3 he feels the water will go a lot further down the road into the village before it gets anywhere near this site. He stated that he is in full support of this proposal, he sat in the Parish Council meeting and listened to what they had to say and this proposal will tidy this area of Manea.

**Proposed by Councillor Benney, seconded by Councillor Booth and agreed that the application be GRANTED against officer's recommendation.**

Members did not support officer's recommendation of refusal of planning permission as they feel that the sequential test is being used as a blocking tool due to other land not being brought forward and the community benefit of getting rid of a potential environmental health problem with the rats and untidy site outweigh the potential flood risk issue.

*(Councillor Marks declared, in accordance with Paragraph 14 of the Code of Conduct on Planning Matters, that he is a member of Manea Parish Council but takes no part in planning. He further declared that the applicant was known to him via his business but the applicant's business has been closed for five years so is not pre-determined and will approach the application with an open mind)*

**P45/23**

**F/YR23/0430/F**

**LAND SOUTH OF 66 WIMBLINGTON ROAD, MARCH**

**ERECT A DWELLING (SINGLE STOREY, 3-BED) AND DETACHED STORE BUILDING INCLUDING THE DEMOLITION OF EXISTING OUTBUILDING AND THE WIDENING OF EXISTING VEHICULAR ACCESS, AND THE FORMATION OF A NEW VEHICULAR ACCESS TO 66 WIMBLINGTON ROAD**

David Rowen presented the report to members and drew attention to the update report that had been circulated.

Members received a presentation, in accordance with the public participation procedure, from Jack Hinson, on behalf of the applicant. Mr Hinson stated that he is at committee on behalf of his grandfather who is the applicant and resident at 66 Wimblington Road, it being a family project with them all living in the area. He feels there are two elements to the proposal, proximity and a low roof height, and made the point that the original application was at the height of the host property but comments were received regarding overbearing so naturally as an applicant they thought they would reduce this to alleviate concerns, however, this application has now had the feedback of being too reduced so there must be a balance to be had between the two proposals.

Mr Hinson expressed the view that they have tried to be proactive by providing the solution and the committee was given a last minute update yesterday but they did offer to adjust the roof height two months ago on the 15 June, which is not new information and they were surprised when it was never accepted. He stated that they believe this fundamentally addresses the refusal by giving a balanced roof height entirely consistent with the neighbour at No.68 and asked that this be given consideration as a balanced and positive outcome, with the refusal saying it is contrived and

significantly lower but this roof height is level with No.68 so he feels this resolves these comments.

Mr Hinson expressed the opinion that in terms of proximity it is a subjective concept but there are ways to measurably show that a site is suitable for a dwelling, typically garden space and parking are unachievable when buildings are too close but both have been demonstrated in this instance and as can be seen by highway and planning officer comments there are large garden spaces provided, with it being an ideal opportunity to facilitate effective use of land. He expressed the view that there is mixed development along Wimblington Road, bungalows, chalets and two-storey properties in a varied pattern and it is not a new estate where you have got house types repeated and he believes the proposal positively reflects the character and street plan as per LP16d.

Mr Hinson stated to be proactive they have made many reductions since the original application to specifically promote separation and accommodate previous concerns, the dwelling is now single-storey with no chalet element, the roof height and building bulk have been reduced, the roof is hipped sympathetically away from neighbouring properties, the internal footprint has been reduced, separation between dwellings has been increased and there are also features such as flush eaves and staggered elevations to enhance that feeling of separation. He showed on a slide on the presentation screen the reductions that had been made on this proposal as opposed to the original application.

Mr Hinson showed images of the proposed street scene including the proposal and that directly opposite the site, which has a similar pattern, and, in his view, it could be considered there are negative elements to those dwellings opposite in that there is a two-storey roof section, there is a side facing bay window on the ground floor directly adjacent to a neighbouring property, and their proposal has none of these negative elements, is a considerate solution to the site, a positive contribution to the street scene and a perfect opportunity to offer a new home which complements the area and is sustainable in a growth area of March. He hoped that members can see the merits of their revisions and reductions and a positive way forward can be achieved, with there being no resident or consultee objections and 8 supportive comments.

Members asked questions of Mr Hinson as follows:

- Councillor Marks asked if the proposed property would be for the family's use or would it be sold? Mr Hinson responded that they are not sure yet but his parents who also live in Wimblington Road have shown a desire to may be move into this property but there are lots of benefits to his family in doing this project. His grandfather is now 80 years old, this process has taken over 12 months and they have tried to be very proactive and it will help to keep his grandfather's mind active and give him a project to undertake.
- Councillor Marks asked if the properties either side were owned by them? Mr Hinson responded that his grandfather is the owner of No.66.

Members asked questions of officers as follows:

- Councillor Mrs French stated that she knows Wimblington Road exceptionally well, it is a tatty old garage at this time, it would improve the area, with Wimblington Road being a mixture of dwellings but asked if the area behind the property is part of the BCP and when were there green Great Crested Newts in this part of March? David Rowen responded that the land to the rear would be part of the BCP and it is an area that is identified as having potential for Great Crested Newts which is a traffic light system of green, amber or red and it is a green zone which indicates that there is lower potential than in a red zone.
- Councillor Booth referred to the March Town Council comments and wondered whether clarification was sought on this as it says approval subject to concerns that the new design is detrimental to the street scene compared to the previous design, which indicates to him that it is worse than the previous design but they are still recommending approval. David Rowen responded that he would interpret those comments in the same way. Councillor Mrs French stated that it needs to be taken into consideration that the comments from March Town Council probably came in before new members received training.

Members made comments, asked questions and received responses as follows:

- Councillor Mrs French made the point that the only main reason that it is recommended for refusal is the design and the applicant is prepared to look at it and he should be given the opportunity to discuss with officers what will be a suitable design. She made the point that what is there at present is a horrible wooden garage, which does not enhance the street scene so she would want this proposal deferred for the applicant to come up with an acceptable design that will satisfy officers.
- Councillor Booth expressed the view that the applicant is really trying but whatever he is putting forward is not meeting the officer's approval and to him this type of issue is more of a subjective one and about whether the actual design that members have in front of them is adverse or not. He feels having seen the photos of what is there, what is opposite and the different nature of buildings in this part of town that this is not an adverse design, with the applicant attempting to reach a compromise and he would be happy to support the application.
- Councillor Imafidon expressed the view that the original design submitted was more in keeping with other properties on the street than the new design. He feels it is not good if applicants are being told to alter their designs and then if a different officer or someone has a different point of view keep being told to amend the design so he is happy to support the application as it is.
- Councillor Gerstner referred to the application being refused previously on the design but going back to that initial design would be going back to square one again and he feels the applicants have made significant changes and to go back to a chalet would be a retrospective move.
- Councillor Imafidon made the point that the applicant has been told to change the design to suit what the officers want and it is still being refused, he is not a planning expert but he would have thought a two-storey design would have been safer in an area that is prone to flooding as people could go upstairs for safety. He is not saying go back to the original design but tell the applicants what is required and stick to it, do not let them change it and recommend it for refusal again.
- Councillor Benney made the point that irrespective of what the previous design is, committee is not looking at that, it is looking at this proposal and applicants put their application in and committee looks at what is proposed, with members having to decide whether they like this application or not.
- Councillor Booth referred to a slide referring to a new application but that is not the amended version that committee has got as the ridge line is in keeping with the neighbouring property. David Rowen stated that the lower image is the one in front of members and is for consideration today, a further iteration of the plan has been submitted, however, that has not been accepted as part of the application given the minor changes and it does not really address the fundamental concerns officers have. He feels sometimes there are sites that whatever you propose on them will not be acceptable, with the original application which officers had concerns about and committee agreed with in terms of the design, the constrained nature of the site and the fact that it would appear as a cramped development combined with the impact on the neighbouring properties and to the best of his knowledge there was no subsequent discussion with the applicant, they have sought to address those issues by coming in with the further iteration which he feels compounds the slightly contrived design to effectively squeeze something onto the site.
- Councillor Marks asked to see the slides where the roof line was at the same level, which states amended proposal and asked is this not what is in front of members today? David Rowen responded that this slide is part of the applicant's presentation.
- Councillor Booth asked why this amended plan has not been accepted? David Rowen responded that it is not considered to address the fundamental issues that officers have with the application, which is that there are two properties either side of it which have a width of around about 10 metres between them and this is a far narrower property sandwiched in the middle, which is going to create a different aspect and appear out of character.

- Councillor Booth stated that in the planning process if an applicant submits a revised application it has to be looked at and asked why this plan is not in front of members? David Rowen responded that if an application is submitted there is no requirement to accept amended plans. Councillor Booth asked if this is an officer decision? David Rowen responded in the affirmative.
- Councillor Benney stated that this is not an amended plan this is a new application so what is in the previous application is totally irrelevant and agreed that some sites do not lend themselves to development.
- Councillor Marks expressed the view that the confusion is having just seen the drawing shown by the applicant's representative which he believes was submitted some time ago as looking at the current proposal the dwelling looks squat whereas looking at the amended plan it does look better. David Rowen stated that the explanation is provided in the update report and read out the wording to members.
- Councillor Mrs French made the point that Wimblington Road is hotch potch of dwelling types and a mixture of detached, semi-detached and bungalows. She feels the applicant has tried to address issues, the proposal looks better than the tatty wooden garage currently on site and would enhance the street scene.
- Councillor Booth expressed concern that the applicant is trying to address the issues, submitted a revised plan and it has not been accepted so what sort of message does this send out that the Council is willing to work with applicants to get designs that are appropriate. He feels it is probably an improvement from what is there and it is not going to be out of character, with it being a subjective assessment as opposed to policies as to what fits in from members viewpoint.
- Councillor Imafidon queried that there are sites that whatever alterations are made are just not acceptable? David Rowen responded in the affirmative and unfortunately sometimes there are sites that are so narrow or how the houses either side are orientated that whatever is done solves one problem but creates another. Councillor Imafidon asked if this applies to this site and if it does why was this not communicated to the applicant? David Rowen stated that this is his view with this site and at no point to his knowledge has any amendments been sought to the application by the case officer and any amendments that have been submitted is because this is what the applicant has decided to build. Councillor Imafidon asked if the applicant knew this was officer's view? David Rowen responded that he is not sure this is relevant but he is not aware there has been any discussion with the case officer to discuss what may or may not be acceptable on the site and there is an application in front of committee and it is a case of making a decision as to whether committee feels it is acceptable or not.
- Councillor Benney stated that slides have been shown indicating what else is in Wimblington Road but when you see the three on this site it is very much narrower than the other sites where there are three properties in a row and what does it do to the house on the left it blocks the light out. He feels that whilst there is a rickety shed there it could be taken down and a garage put in its place which would enhance No.66 and the area. Councillor Benney questioned whether this proposal fits as there are all nice houses in this area and this proposal is being shoehorned into a very tight space and in terms of street scene what does this do to all the houses along here.

**Proposed by Councillor Booth, seconded by Councillor Mrs French and agreed that the application be GRANTED against officer's recommendation, with authority delegated to officers to apply reasonable conditions.**

Members do not support officer's recommendation of refusal of this proposal as they do not feel that it would be to the detriment of the character or the appearance of the area, it is a suitable development for this plot of land and it will not cause any residential loss of amenity to neighbouring properties.

*(Councillor Benney abstained from voting on this application)*

*(Councillors Mrs French and Purser declared, in accordance with Paragraph 14 of the Code of Conduct on Planning Matters, that they are members of March Town Council but take no part in planning)*

**P46/23**

**F/YR23/0548/O**

**LAND WEST OF 176 HIGH ROAD, GOREFIELD**

**ERECT UP TO 5 X DWELLINGS (OUTLINE APPLICATION WITH ALL MATTERS RESERVED) AND THE FORMATION OF 5 X ACCESSES**

David Rowen presented the report to members and drew attention to the update report that had been circulated.

Members received a presentation, in accordance with the public participation procedure, from Gareth Edwards, the agent. Mr Edwards stated that the application has the support of most of the standard consultees and a number of businesses from the village. He expressed the view that the proposal will provide for 5 individual plots which are likely to be purchased by self-builders or small developers which do not have the financial capacity to purchase the larger sections of development land in the District, with these parcels being massively important for Fenland to provide a diverse housing mix.

Mr Edwards stated that Gorefield is a small village under LP3 where development will be considered on its merits but will normally be of a very limited nature and limited to a scale of residential infilling or a small business opportunity but he would argue that as the site is the continuation of the constant built form on this side of the road of High Road and the natural boundary to the village built form is that of Hassock Hill Drove, which is to the west of the site, this is infilling from the existing built form to the natural end of the village. He made the point that there are further properties and businesses down Hassock Hill Drove but he would suggest that these are in open countryside whereas this development is a continuation of the built form and will provide a natural break between the village and the open countryside beyond.

Mr Edwards referred to in the description of LP3 the mention of “normally” a couple of times and questioned what is normal arguing that the site is similar to many that have been approved in the District and within the village itself especially the frontage plots that were approved on High Road at the other end of the village where there was a dyke seen as the end of the village for new development, with works taking place on the dwellings on this development. He stated that this is an outline application with all matters reserved, with the indicative layout showing how the site could easily accommodate 5 large dwellings but should committee feel that a single point of access should be provided they are happy to accept this as a condition of the approval.

Mr Edwards stated that the points made by North Level are noted and any development will look to put surface water from the site into the North Level main drain which is the other side of High Road and the relevant applications will be made to both North Level and Cambridgeshire County Council. He expressed the opinion that the site has not been maintained for a number of years other than for a bit of grazing and any proposal would look to clean out the dykes to improve the drainage for the site and surrounding properties and the land has not been commercially farmed for many years and viewing images from Google Earth it was in its current use in 1999 so there would be no loss of commercially farmed land.

Mr Edwards stated that a sequential test has been carried out on the land as part of Gorefield and not an elsewhere location, this has shown that there are no available sites in the village that can accommodate the number of dwellings proposed and he also checked Rightmove this morning and there are no plots for sale in the village. He feels they have addressed the reasons for refusal in that the development is infill between the existing constant built form of High Road and that of Hassock Hill Drove, which is the natural boundary to the village and from this point it becomes open countryside, the sequential test carried out on Gorefield which shows there are no available plots, the site is consistent with other developments that have been approved both within the

village and the District as a whole and he requested that committee approve the application with the conditions deemed appropriate.

Members asked questions of Mr Edwards as follows:

- Councillor Gerstner referred to the mention that the land had not been commercially used since 1999 but feels the photographs show a cornfield. Mr Edwards responded that the site is just a grass field there are no crops. Councillor Marks added that his first thought was the land has been set aside so is still commercial property, still being used and getting paid a grant on it. Mr Edwards advised that his client has owned it for a long while it has never been farmed. Councillor Gerstner reiterated that the photos make it look like a cornfield. Mr Edwards responded that it is scrubland it has never been farmed as far as he is aware.
- Councillor Benney stated that he has visited the site with Councillor Mrs French and it is not a cornfield it is just scrubland. Councillor Mrs French added that this is the benefit of going out on site rather than looking at photographs.
- Councillor Gerstner requested clarification that it was arable land in its past and it has not been commercially used for a long time? Mr Edwards responded that at some point in time every part of Fenland has been arable land but this site has not been farmed for many, many years.
- Councillor Benney referred to 10.17 of the officer's report in that the application is accompanied by a sequential exception test which advises that the area of search is Gorefield rather than the whole rural area and officers disagree with this as a site it is considered to be outside the settlement of Gorefield and as such the sequential test is considered to fail and asked from this was the sequential test undertaken area wide rather than specific to Gorefield, when the test was undertaken was it looking for sites within Gorefield only and what is his opinion about undertaking it over a bigger area, with the bigger the area the more likely it is to fail? Mr Edwards responded that they concentrated on Gorefield alone as they are touching the built form of the village, with the village sign being in front of the site so it is clearly Gorefield and not an elsewhere location in his opinion. Councillor Benney asked what was found in Gorefield that would be an alternative site? Mr Edwards advised that there was no land available that is not already being developed.

Members asked questions of officers as follows:

- Councillor Gerstner acknowledged that committee is looking at the application in front of it today, however, an application was considered by the committee in January 2022 and was refused on three grounds and asked if anything has changed since the previous application and this one? David Rowen responded that the previous decision was a delegated decision so it was not a committee decision and the application is essentially the same as previously refused by the Council.
- Councillor Booth stated that reading the report the reason that it is before committee is because there are 5 letters of support from Gorefield and 2 from the neighbouring ward of Leverington, which takes it over the 6 letter threshold and asked if this is correct? David Rowen confirmed that this is correct.

Members made comments, asked questions and received responses as follows:

- Councillor Booth stated that this site is within his ward and he was present, although he did not take part in the discussion, at the Gorefield Parish Council meeting when they discussed this application, being refused previously under delegated powers and he feels the main reason to consider is whether this is in the village of Gorefield or whether it is extending the boundary and he feels, living quite near here, that the boundary is where the two speed limit signs and this would be extending the boundary so it would be going against policy. He stated that he finds it difficult to support this application on this basis and also the Parish Council have recommended refusal so members should listen to the Parish Council where it can as they know what is happening locally and have local knowledge.

Proposed by Councillor Booth, seconded by Councillor Gerstner to refuse the application as per the officer's recommendation which was not supported on a majority vote.

Members made comments, asked questions and received responses as follows:

- Stephen Turnbull, the Legal Officer, drew members attention to the Planning Code of Practice, which says members are advised that a serious risk of challenge is imposed by failure to give and record clear and convincing planning reasons for the approval of planning applications where there is a history of refusals by the council and in this case there is a very recent refusal. He added that the Code of Practice also says that if the council is minded to approve an application previously refused the proposer of the motion must state what significant change in planning circumstances has occurred since the previous decision.
- Councillor Marks asked if this is planning circumstances or as it is a new committee there are different people who have different perceptions? Stephen Turnbull responded that Paragraph 10 of the Code of Practice says that the fact there has been a significant change in the membership of the Planning Committee does not justify inconsistency between current and previous decisions.
- Councillor Benney stated that here the committee is again in a situation where the proposal to refuse it has been rejected and they are now in a position where another proposal is going to be put on the table and reasons are required. He made the point that it is another committee, people's opinions change and the opinion of the decision makers has changed although the development may not have so how is this rectified as if the committee has voted that they do not want to refuse this application and they do want to approve it, it cannot be a situation where things cannot change as does this mean for the next 200 years this site will never be built on. Councillor Benney expressed the view that in relation to the Code of Conduct who is going to challenge it and put money up for judicial review on this application, with no councillor having been sent to prison for making a wrong decision and it will be the Council who picks the bill up. He feels if it becomes an approved decision that may not sit right with the Code of Conduct but it may be this position if members vote that way. Stephen Turnbull responded that things do change and the answer from the Council's constitutional point of view is policy can change, with the site possibly becoming part of the settlement or allocated in the Local Plan which would be a legitimate change that might justify changing the decision but it is right that the Council has to be consistent in its decision making so if this came before a Planning Inspector who looked at the Council's approval now having refused it last year with no change in circumstances it would be seen as a fairly eccentric decision and not consistent with previous decisions. He stated that he is not saying that committee must refuse this application but he has to draw members' attention to their Code of Practice which was written by members and if it came before an ombudsman rather than a judicial review, an ombudsman has powers to order payment of compensation and publicly declare the Council is guilty of maladministration.
- Councillor Benney stated that this does not change that the situation is as it is and a proposal is going to come to the table for something else and members are going to vote a certain way, with the consequences being later on if members go with another proposal but members could still change their mind and decide they do not want another proposal and go back to the first proposal but it needs to run its democratic process. He made the point that there are 4 new members of the Planning Committee who were not here last time and they are entitled to have a totally different interpretation of policy. Stephen Turnbull responded that the reason why the Code of Practice says what it says is to try and encourage consistency in planning decisions so it cannot be right that new members of a committee take contrary decisions to previous historic decisions that have been made.
- Councillor Booth stated that the Code of Practice is there to try and ensure consistency and make sure that this Council looks like it is acting appropriately and consistently in relation to planning applications, it is one of the big criticisms the Council has that it does not have a consistent approach and drew members attention to Page 171 where it was refused on 4 August 2022 for three main reasons; policies LP3, LP12 and LP14 and, in his view, there has not been a material change in policy, with the opportunity to change policy during the Local Plan review process.



- Councillor Mrs French made the point that what officers interpret and what members interpret is different. She fully understands the point about the Code of Practice but if this had come to Planning Committee last year and the committee refused it committee would have to be consistent and refuse it but members do interpret policies differently which has been seen today right across this meeting so she thinks it can be justified in members having a different view to officers, which does not take anything away from the professionalism of officers.
- Councillor Gerstner stated that this is why we are a democracy as everybody has their own views on this and all he is looking for is an element of consistency and if members decide to vote against officer's recommendation that they come up with valid planning reasons to go against the recommendation.

**Proposed by Councillor Benney, seconded by Councillor Mrs French and agreed that the application be GRANTED against officer's recommendation.**

Members did not support officer's refusal of planning permission as they feel that the proposal is not building in the open countryside, there are buildings opposite and it is squaring the end of the village providing quality development on the entrance to the village and a sequential test has been undertaken in Gorefield which shows no other sites are available and the mitigation can be undertaken on the flood risk of this site.

*(Councillor Booth declared, that he is a District Councillor for Parson Drove and Wisbech St Mary Ward and attended the meeting of Gorefield Parish Council where this application was discussed, but took no part and will consider the application with an open-mind)*

4.36 pm

Chairman