

# PLANNING COMMITTEE



**WEDNESDAY, 12 JANUARY 2022 - 1.00 PM**

**PRESENT:** Councillor D Connor (Chairman), Councillor I Benney, Councillor G Booth (Substitute), Councillor M Cornwell, Councillor Mrs M Davis (Vice-Chairman), Councillor Mrs J French, Councillor C Marks, Councillor Mrs K Mayor, Councillor A Miscandlon (Substitute), Councillor P Murphy, Councillor R Skoulding and Councillor D Topgood.

**APOLOGIES:** Councillor Mrs S Bligh, Councillor M Purser and Councillor W Sutton.

Officers in attendance: Nick Harding (Head of Planning), David Rowen (Development Manager), Alison Hoffman (Senior Development Officer), Ben Standing (Legal Officer) and Elaine Cooper (Member Services).

## **P68/21      PREVIOUS MINUTES**

The minutes of the meeting of 1 December 2021 were confirmed and signed as an accurate record.

## **P69/21      F/YR21/0597/F 8 THE WATER GARDENS, WISBECH ERECTION OF A PART 2-STOREY, PART SINGLE-STOREY REAR EXTENSION; INSTALLATION OF AIR SOURCE HEAT PUMPS AND PV PANELS TO EXISTING BUILDING AND FORMATION OF A FOOTPATH ACCESS TO SCHOOL FIELD INVOLVING PIPING OF DYKE**

David Rowen presented the report to members. He informed members that a late representation had been received from residents of The Water Gardens pointing out that:

- all properties in the development are subject to covenants designed to prevent any use apart from private residential
- the Council has repeatedly refused planning permission to other sites in the development insisting that the character of residential properties with large gardens should be maintained
- the original property has already been doubled in size with the garage converted to dormitories
- the proposed extension will fill the rear garden with the type of development the Council has quite reasonably repeatedly refused others in the development to do
- the school owns extensive grounds and could build a dormitory on their own land if they need one
- there are numerous existing buildings nearby in the town which could readily be converted to dormitories
- the developer purports to be retaining the property as a residential non-commercial enterprise but 8 The Water Gardens is the registered office of KJL Property Management, a company created 2 years ago whose only asset appears to be 8 The Water Gardens so the property does not belong to the school and is, therefore, a commercial enterprise which at any time could be used for other purposes.

Members received a written representation, in accordance with the public participation procedure,

from Councillor Meekins, a District Councillor, read out by Member Services. Councillor Meekins stated that he wished to object chiefly on the grounds of overdevelopment of the existing property by a considerable percentage footprint increase and the loss of privacy and overlooking to some of the neighbouring properties. He expressed the view that other concerns are that the new development will lead to a relatively large number of school age children being housed in a very quiet cul-de-sac with only seven other properties in it, with the potential for increased noise nuisance being a real one.

Councillor Meekins expressed the opinion that the design and appearance of the proposed extension is completely out of kilter with the present development. He feels that there has been no consultation between Wisbech Grammar School and the local residents.

Councillor Meekins stated that already the developers building staff have caused extra traffic flow and inconsiderate parking and a mature tree on site was felled because "it was in the way" without any discussion with the existing residents. He made the point that Wisbech Grammar School is a flagship institution in Wisbech, but, in his view, the way this proposal has been handled has been very poor to its potential neighbours. He would have thought that a boarding house would have been better situated on the Grammar School campus and be purpose built rather than a converted domestic premises, with the school having very extensive grounds in which to have done this.

Members received a presentation, in accordance with the public participation procedure, from Mr Bird, an objector to the proposal. Mr Bird stated that eight years ago the Planning Inspectorate on appeal turned down an application for an infill dwelling in The Water Gardens as "it would cause harm to the visual and residential amenities of the road contrary to Policy E8 of the Fenland DWLP 1993 and Policy CS16 of the emerging Fenland Planning Core Strategy of 2013". He made the point that there was only one objection at that time from neighbours to this application and that objector did not even live on The Water Gardens, with all seven of the neighbours objecting to this proposal due to the visual impact the proposed development will have.

Mr Bird questioned why the case officer has recommended approval of this application when the earlier application was turned down, which, in his view, shows a total lack of consistency. He stated that The Water Gardens is a small residential development comprising of 8 large detached well-spaced dwellings served by a narrow private road with the properties built approximately 60 years ago.

Mr Bird expressed the opinion that the sewage comprises of 5 inch clay pipes which are susceptible to blocking and asked what impact of the approximately 10 toilets and many baths and showers, equivalent of another 5 dwellings, is going to have on this sewage system designed in the 60's which has problems coping with the 8 dwellings it already serves. He expressed the view that they have been told that the proposed units will be occupied by foreign students, with the application being made on behalf of a Chinese company called KJL Property Management Limited, which they have failed to put on the planning application form which is misleading.

Mr Bird stated that the investors also own and run the school as a business and asked if no foreign students wished to attend Wisbech Grammar School, would the school look to use the property for English boarding students and if so there would be nowhere for parking for the parents and visitors. He expressed the view that even now the driveway in front of the property is full most of the time by school or trade vehicles.

Mr Bird feels that the KJL Property Management have totally disregarded the property's covenants with the planning process, by felling trees and putting a footbridge across without planning being granted. He stated that the application originally made by this company was for a three-storey extension and after discussion with the case officer, and objections of residents, this was reduced to, in his view, a two-storey monstrosity as is shown by the photographs.

Mr Bird expressed the opinion that, if permission is granted, the Planning Authority would have difficulty refusing a later application for a three-storey building, which is known to be the applicant's preferred option to gain more units and also gives way to other property owners in the road applying for permission to build in between their houses as large-scale gardens surround every house. He reiterated that all the occupants of The Water Gardens object to this proposal, which, in his view, would be visually intrusive and have a harmful impact on the character, beauty and tranquillity of this area.

Mr Bird expressed the view that the proposal is totally out of keeping with the neighbourhood, would cause harm to the residential amenities of the area and furthermore if the application was successful it would show a complete lack of consistency and total disregard of the Council's own regulations. He referred to the pictures on the presentation screen, which show, in his view, the impact on the residents of The Water Gardens, which is demonstrated in a one-dimensional way, but the impact will be far greater if completed.

Members asked questions of officers as follows:

- Councillor Booth referred to the late representation read out by officers, which mentioned a potential commercial use of the property and asked would this proposal break the existing use of this property or not? David Rowen responded that the representation made reference to the fact that there are covenants on the property restricting commercial use and the enforcement of covenants is not a material planning consideration. He stated that it is a question of whether the extension, which already has authorised use as a boarding house, and the increase in the number of residents is appropriate.
- Councillor Booth made the point that residents are saying that the property is owned by a commercial body so effectively it is not residential but commercial as it is renting out accommodation. David Rowen responded that it is his understanding that the company that is referred to is a subsidiary company of the Grammar School, but members should not get too embroiled in who or who does not own the property, the application is clear in that it is for boarding house use in association with the Grammar School. The Chairman made the point that it does not matter who owns the property the focus is on the application before members.
- Councillor Booth asked for clarification that it is not classed as commercial use because it is being used as a boarding house versus residential, which it has permission for? Nick Harding reiterated that it has planning consent for use as a boarding house in association with Wisbech Grammar School so this is what the lawful use is.
- Councillor Mrs French requested clarification that members are looking at an extension only and the use of it is not a material consideration? The Chairman confirmed this to be correct.
- Councillor Booth referred to the pre-application discussions and changes made to the proposal and asked if more suitable sites were part of those discussions? David Rowen responded that members have to look at the proposal in front of them and if that is acceptable.

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

- Councillor Booth expressed his difficulty with the application from the perspective of what the development is in a residential area but is tied by what the planning rules allows. He feels there are two areas of concern, which are residential loss of amenity to the neighbours and parking, but officers are saying these are not material in scale to warrant refusal of planning permission and whilst he does not agree with the application, he is struggling to find any reason why it should be refused.
- Councillor Mrs French agreed with Councillor Booth in that there is no justification in planning law to refuse, although she does sympathise with the residents.

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

*(Councillor Cornwell declared an interest in this application, by virtue of the fact that his granddaughter attends Wisbech Grammar School, and took no part in the discussion and voting thereon)*

**P70/21**

**F/YR21/0811/O**

**LAND SOUTH OF 107 UPWELL ROAD, MARCH**

**ERECT UP TO 8NO. DWELLINGS (OUTLINE APPLICATION WITH ALL MATTERS RESERVED)**

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

Members received a presentation, in accordance with the public participation procedure, from Malcolm and Jennifer Gray, objectors to the proposal. Mrs Gray expressed the opinion that the acceptability in principle of this application has been based on it being a minor development, but the site is 0.8 hectares with surface water drainage and the field is not within the curtilage of 107. She referred to NPPF for housing development and the Town and Country Planning Consultation England Direction 2021 document which states that a major development in respect of residential development is development where the number of dwellings that could be provided is 10 or more or the site area is 0.5 hectares or more, therefore, in her view, this is a major development and has not been considered against the correct legislation.

Mrs Gray referred to the Town and Country Planning Development Management Procedure England Order Schedule 4 Paragraph ZE, which requires the Local Lead Flood Authority to be consulted about major developments with surface water drainage before the grant of permission and that the Cambridgeshire Flood Water SPD Section 4.3.15 requires a major application to submit a surface water flood risk assessment before permission is granted. She expressed the view that, as this is an outline application for a major development, it should have been subject to a site-specific flood risk assessment.

Mrs Gray stated that their garden is already suffering from surface water run-off from the field, which is approximately 1 metre higher than their damp course, and this would have been picked up if a topographical survey had been carried out in accordance with NPPF 157B, referring to photos 1 and 2 on the presentation screen which showed their garden flooded. She expressed the view that the plot of 107 has been raised by 300mm from the original ground level as could be seen by photograph 3 on the presentation screen.

Mrs Gray expressed the opinion that the change of use of garden land to an access road would increase surface water run-off and the positioning and design of this access with a slight bend changes their property into a corner plot. She feels that if a vehicle was to lose control on the proposed access road it could hit their bedroom wall, which is less than 1 metre away from the fence, and could be potentially fatal if they were in bed, referring to photo 4 showing the distance between their fence and property.

Mr Gray expressed the view that this proposal does not meet the objectives set out in the Fenland Local Plan LP16 as the proposed access runs the full length of their property, which is approximately 53 metres, and will be in close proximity to their conservatory and patio, which will have an adverse impact on their amenity and on their health and well-being from noise and vibrations from vehicles passing in close proximity to their bedroom disturbing their sleep. He feels it will also impact on the peace and quiet of their back garden, and a loss of privacy to their patio area.

Mr Gray expressed the view that the 8 dwellings proposed will generate more noise and increase pollution from vehicle movements, with statistics showing that car ownership in the East is 1.4 per household and they make 1.1 journeys per day, equating to 173 vehicle movements per week

along this access road, which excludes visitors, deliveries and bin collections, which is considerably more than a lawnmower once a week in the Summer. In his opinion, the fumes from these vehicles entering their bedroom and conservatory windows will have a detrimental impact on their health.

Mr Gray expressed the view that the impact on their amenity cannot be resolved via Reserved Matters if the road constructed is where shown and made the point that other approved applications in this area were minor developments, less than 0.5 hectares, using existing access roads. He stated that no other new developments in this area have access roads passing so closely to the living space of an existing single-storey dwelling.

Mr Gray stated that this application relies on the access being acceptable in principle, but, in his opinion, it fails to comply with all the requirements of LP16 and asked how would it be possible for this to be mitigated against at Reserved Matters as it needs to be assessed as another source of flooding. He stated that 7 street trees and 5 mature Ash trees have already been removed from this area, with this application requiring the removal of another street tree.

In Mr Gray's opinion, this is an invalid application as there are serious errors in the executive summary and he asked the committee to be sure that all the information in front of them is correct as they will be making a decision that will affect the rest of their lives.

Members asked questions of Mr and Mrs Gray as follows:

- Councillor Booth referred to the photos and that Mr and Mrs Gray have said their property is affected by the flooding and asked how regularly this occurs? Mrs Gray responded that recently in 2017 and December 2020 and stated that when they first moved into the property in 1977 they had a septic tank and in the Winter the water from this would flood their garden. She advised that they went onto a surface water drainage system and the applicant's father also put drainage in the field. Mrs Gray stated that they had not suffered any flooding problems until recent years, however, with climate change and the extra water, their property is at medium risk of flooding due to surface water. She advised that there has always been drainage problems as they are on clay soil but it has become progressively worse and housing on the field is not going to help. Councillor Booth made the observation that those periods in time when the flooding was particularly bad was when there were problems in March due to extreme weather events.

Members received a presentation, in accordance with the public participation procedure, from Ian Gowler, the agent. Mr Gowler stated that the site is proposed to be accessed between 105 and 107 and a detailed access is not being proposed as it only an Outline application and Highways have indicated that they are happy, in principle, with the proposed access. He made the point that Environmental Health were consulted during the application, particularly in relation to the road being next door to 105, and they were happy in principle.

Mr Gowler referred to the removal of a tree on Upwell Road and that the Tree Officer is happy that this is removed but wants new trees providing in the site. He stated that the field where the proposed dwellings would be built is only half of that field and believes this is why it is a minor application as it only part of the whole field.

Mr Gowler stated the site is currently a grass field and has been for many years, which the applicant regularly cuts, and there is, in his view, very little ecological value to the site and it is proposed as one of the conditions that there would be an ecological survey prior to a Reserved Matters application and ecological enhancements proposed as part of this. He acknowledged that surface water drainage is an emotional and important topic, with the proposal having a strange layout to reach an attenuation pond at the back of the field and the reason that this is in this location is because it is much lower than the existing Upwell Road so water will naturally drain away to this point and there is also a ditch in the corner which will take an attenuated flow from the

development.

Mr Gowler made the point that the existing properties of 109 and 103 both have no objections to the application, with their written statements being on the Planning Portal. He stated that the occupants of 103 are his wife's aunt and uncle and he believes that they would have mentioned if they had any issues with flooding on their property.

Members asked Mr Gowler questions as follows:

- Councillor Cornwell referred to the overflow from the surface water going into a dyke and asked if the applicant owns the dyke or is it an Internal Drainage Board dyke? Mr Gowler responded that he believes it is a half-ditch and is not a Drainage Board ditch as far as he is aware. Councillor Cornwell stated that it falls under riparian ownership rules then.
- Councillor Mrs French expressed the view that access should be determined at the Outline stage and she is concerned that the access is not being committed at this time. She stated that she is well aware of the flooding issues and asked if the development is going to be connected to the main sewerage? Mr Gowler responded for foul drainage yes and made the point that Highways have been consulted over the access and are happy in principle with the layout as well as Environmental Health.
- Councillor Mrs French asked Mr Gowler if he was aware that they would possibly have to undertake an archaeological dig? Mr Gowler confirmed that he was and that it is one of the proposed conditions.
- Councillor Miscandlon referred to a section of land at the back of the site along the drainage pond and asked if this was in the ownership of the applicant? Mr Gowler responded that the whole field past the proposed attenuation pond is in the ownership of the applicant. He stated that the actual red line is a funny shape as it includes the drainage pipe that will take the surface water away from the development to the attenuation pond, so although it looks like there will be a parcel of land left it will still be one big field left in the ownership of the applicant.
- Councillor Miscandlon questioned whether there is potential for more development to take place on this bit of remaining land? Mr Gowler responded that he and the applicant felt it would not be appropriate as Upwell Park and a recently approved site form a natural boundary and it would not comply with policy. The Chairman reiterated that members need to determine the application that is in front of them.
- Councillor Mrs Mayor referred to photograph 3 of the objector's presentation and asked for an explanation on the site level being 300mm higher than the original ground level and is this causing the flooding issue or exacerbating it? Mr Gowler responded that he is not sure if and when the existing level of 107's garden was raised, on the flood maps it does seem to be a low spot in relation to 107 and their garden does seem lower than other properties on Upwell Road. He stated that as far as he is aware the ground levels have not been raised in recent years.
- Councillor Connor acknowledged that the proposal is for Outline planning permission, but asked, if the proposal is approved today, recognising that there are some flooding issues in the area, could the attenuation pond be formed at the point the properties reach slab level? Mr Gowler responded that the management and maintenance need to be conditioned stating that it is maintained by some kind of management company and the applicant would be happy for this to be part of a condition. He made the point that as the drainage is part of the detailed application and the road would not be adopted they will both need some kind of management company put in place to oversee their maintenance.
- Councillor Mrs Davis asked why the attenuation pond is at the back of the field and not closer to the houses? Mr Gowler responded that part of the field falls away from Upwell Road and this is the lowest part of the site so it makes sense for the drainage to fall that way and the rear boundary has a ditch with an attenuated pipe flow which will take the outfall of the attenuation pond.
- Councillor Booth referred to a management company managing the attenuation pond and he believes in adopted policy that the preference would for it to be managed by an Internal

Drainage Board and asked if Mr Gowler had approached any drainage board regarding this? He further asked what the levels of the attenuation pond would be referring to lower levels and 300mm differences in ground levels? Mr Gowler responded that some of these issues would be subject to detailed design and at that time Middle Level would be consulted where drainage calculations will be asked for. He made the point that it is always a balancing act on whether to undertake a drainage strategy now but not knowing if the site is going to be acceptable in principle for a development. Mr Gowler stated that if Middle Level will take responsibility for that drainage pond this will come out of the agreement and discussion at the detailed application stage, but he not sure it would as the pond is not directly out-falling into a Middle Level ditch. He thinks the land drops between 1-1½ metres between Upwell Road and the bottom of the field.

Members asked officers questions as follows:

- Councillor Mrs Mayor expressed concerns about the levels and thinks from what Councillor Booth has said he has concerns as well, there is obviously an issue with the land levels, an issue with a riparian ditch and the attenuation pond and the circumstances needs to be right from the beginning it cannot be a situation of an Outline application which is constantly altered, and asked how the land level issue can be overcome? David Rowen responded that it is clear that the levels at 105 Upwell Road are lower as has been seen from the photographs, but why this is he is not sure and queried whether the land level at 105 had been changed, such as has the garden been dug down? He feels the issue of land levels and drainage is that there is an existing problem with that property on Upwell Road notwithstanding if this development goes ahead or not and the question is would this development exacerbate or make worse that situation and as part of the application there is a demonstration that there is a possibility of the site being drained in a different way and potentially in a way that would take away some of that drainage away from the properties on Upwell Road, which would be subject to a more detailed drainage strategy that would be required as part of the recommended condition 6. Officers are comfortable that there is a way of adequately draining the application site which does not exacerbate any existing drainage issue that properties on Upwell Road may be experiencing. Councillor Mrs Mayor expressed concern over the fact that people buy properties and do things in their gardens without the knowledge on what is going to happen to a neighbours gardens, whilst there is nothing members can do about this, the scheme needs to be right from the beginning and that is what she is trying to get to.
- Councillor Murphy referred to 9.25 and 9.26 of the officer's report where it mentions refuse vehicles would not be able to go down a private road, which on this development it is likely to be as it would not be adopted, and it says the occupiers could be required to wheel their bins down to the highway which is 115 metres against a Recap guidance of 30 metres, which is a long way to take bins down and questioned whether it should say could or would because if nothing happens to the roadway refuse vehicles would not be able to get down to the properties and they would have to wheel the bins down not could. David Rowen responded that use of the word "could" is correct as part of Condition 6 there is a requirement for a refuse collection strategy to be submitted and it could be the case that a private refuse collection is arranged, it could also be that the developers of the site enter into a non-indemnity clause with the Council to indemnify collection by the Council down a private road so there is several different options which could emerge in the future.
- Councillor Murphy asked if the best way to approach it would be through a management company? David Rowen stated that this would have to be addressed by the developer in the future, but there is going to have to be a management company set up in respect of the road and any drainage so it may be that as part of this general management that a private refuse collection forms part of this.
- Councillor Mrs Davis expressed concern over applications such as this where there are not full details over the access road and asked if there is any idea on how wide the

access will be? David Rowen responded that the indicative plan indicates the width of the road is 5 metres.

- Councillor Booth stated that Mrs Gray referred to the NPPF and whether this application should have been determined as a minor or major application, with the implication being that the Lead Local Flood Authority being engaged with the process. He asked for clarification on whether the application should be a minor or major and why? David Rowen stated that it is a minor application and the Local Government Association Planning Advisory Network gives a definition of “a major development is one where the number of residential units to be constructed is 10 or more, where the number of residential units to be constructed is not given in the application a site area of 0.5 hectares should be used as a definition of a major development” and in this case there is a number of dwellings specified as part of the application, which is 8 dwellings.
- Councillor Cornwell asked what is the distance between the access road and the boundary of the bungalow as Mr and Mrs Gray mentioned that it was very close? David Rowen responded that looking at the indicative plan showing the 5 metres access road it looks as though it would be approximately 1½-2 metres. Councillor Cornwell expressed the view that this seems tight, but asked if officers are saying that this is acceptable? David Rowen stated that this is the view that has been taken, Environmental Health have commented on the application and have not raised any amenity issues and the officer’s assessment is that it is tight but it is not considered that the impact on amenity to be unacceptable. Councillor Cornwell made the point that concern has been raised by the speakers today and, therefore, he feels it does become an issue.
- Councillor Mrs French expressed concern about the access and, in her view, it should be decided at this stage and not at Reserved Matters. She stated in regard to the flooding she is well aware of the flooding down Upwell Road, which was severely flooded in December 2020. Councillor Mrs French advised that from her investigations that have been undertaken with officers at the County Council going around every dyke, drain and gully, they have discovered that there are approximately 10 properties down Upwell Road who have either got greenhouses/garden sheds or other structures built over a riparian dyke. She stated that part of that dyke belongs to Fenland District and Cambridgeshire County Councils and there will be a legal agreement that all these obstructions need to be removed and the dyke reinstated, but there is no timescale for this to happen as it is in the hand of the Legal Team at County Council. Councillor Mrs French referred to 9.15 of the officer’s report where it states “it is clear that surface water flooding already occurs to properties along Upwell Road and it is unlikely that the development would overcome the existing issues”, but she would not expect it to overcome flooding issues. She stated that she knows what the problem is in Upwell Road, she is not sure if it comes up as far as 105 and 107, but it certainly affects No.1 up and the land that belongs to the Council backing onto the cemetery, which was cleared out a few weeks ago by Fenland District Council. Councillor Mrs French feels that the flooding issues are being overcome, but she would like to see an attenuation tank as she is concerned that if the water is piped into a riparian dyke that does not belong to the owner it is somebody else who has to maintain somebody else’s water. She feels that there are a lot of questions still to be answered and officers need to take these concerns into consideration. Nick Harding responded that in respect of access not being included as a matter of detail in this Outline application, this is a decision solely for the applicant to make, but if as the Planning Authority this is unsatisfactory then planning consent could be refused on the grounds that access details are so important that it is fundamental to the acceptability of this site, however, in this instance there has been an indication from the County Council’s Highways Officer that, in principle, the formation of an access serving the site on to the adopted highway is achievable and hence the officer’s recommendation for approval. In respect of surface water, he made the point that there is an indicative proposal that has been tabled as part of the application, it is conditioned and it appears highly likely that an acceptable detailed scheme could be arrived at. Nick Harding stated that the proposal is going to be positively drained away



from existing development to the balancing pond, with the roof water from the properties and hardstanding areas also going to that piped system and that system of surface water management will have to take into account climate change and there will be some betterment over the existing situation. He made the point that whilst he might not be an expert on riparian responsibilities it is his understanding that if you have a parcel of land that backs onto a riparian ditch you have responsibility for your half of it and, therefore, by default the landowner in this instance would have the ability to discharge into that ditch. Councillor Mrs French stated providing it belong to them, you cannot put water into someone else's ditch without permission. Nick Harding responded that if it is riparian then it is half of their responsibility and, therefore, the landowner would have the ability to discharge into it.

- Councillor Booth asked if in officer's view the access is acceptable and whether there was any guidance on what the minimum distances are or is it a subjective matter on whether there is a loss of amenity? Nick Harding responded that there is no prescribed technical manual to establish whether an adopted highway is too close to an existing property, but what needs to be recognised is down that boundary a 2 metre high fence can be erected by the existing landowner and that would act as a sufficient boundary to protect the amenity of the adjacent landowner to a significant degree and, therefore, officers deem the relationship acceptable as well as the physical gap that is proposed. David Rowen drew members' attention to 5.2 of the officer's report where following consideration of a neighbouring objection regarding the proximity of the access road to their property further comments were received from Environmental Health acknowledging the concerns raised regarding the access road, but they would not object subject to conditions already recommended and would also recommend that no gravel is used on the access road and at the Reserved Matters stage the access road is tarmacked or concrete surfaced to reduce noise and disturbance. Environmental Health officers are better equipped than Planning Officers to deal with detailed scientific levels of amenity considerations and Environmental Health are satisfied in that regard subject to that condition.
- Councillor Marks referred to the photographs and believes this property already has a fence all the way around it. Officers confirmed in the affirmative.
- Councillor Mrs Mayor referred to 5.2 and it does not say whether officers actually visited the site or whether it was a desk top study and thinks that sometimes Highway engineers need to visit the site to see whether the access is possible or not. Nick Harding stated he is not aware whether the engineer did visit the site or not, but in terms of the visibility splays that has been considered as it has resulted in the need to remove a tree in the public highway and officers are satisfied that the Highway's Officer considers there is going to be adequate visibility when exiting from this junction.
- Councillor Connor made the point that members are worried about flooding issues and asked officers if they are confident that perceived flooding issues on this site can be addressed? Nick Harding responded in the affirmative.

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

- Councillor Topgood acknowledged that there are issues with the access and flooding, but feels that members are forgetting that this application is an Outline one and the details will come at the Reserved Matters stage.
- Councillor Booth understands what Councillor Topgood is saying, but once the application is approved it has permission and if there are concerns they need to be discussed at this point. He does have serious reservations about the development, especially in relation to flooding.
- Councillor Connor made the point that the Head of Planning was confident that flooding issues could be overcome.
- Councillor Mrs French expressed the opinion that there is no reason to justify refusal, but she is not happy with the application, especially in relation to access and flooding, but hopes when a Reserved Matters application is submitted these issues would be resolved.

- Councillor Benney referred to all the concerns regarding flooding, with members having seen the photographs which confirms that it does, but members have been told by officers many times before that when a scheme comes forward it can solve the problems with flooding. He referred to the 88 homes at Wimblington where there was a strong compelling argument to turn it down due to flooding, but members called in the technical experts from Anglian Water and Internal Drainage Board who all said the development was acceptable from a drainage/flooding perspective. Councillor Benney made the point that members are not qualified to challenge this view and if officers are telling members that these issues can be addressed through a mitigation scheme how can the committee go against it. He feels that the proposal is a scheme that is policy compliant and if members vote against it today it will go to appeal and the Council would probably lose. Councillor Benney acknowledged that there are flooding problems in Fenland, but officers say there is a technical solution and if it cannot be found on this development it will not be built, and as much as he sees the concerns there are with this proposal, he does not see any other option than to approve it today.
- Councillor Mrs Mayor referred to the comments of Councillor Mrs French whereby the County Council have already done some surveys in the area and made the point that there are more riparian ditches, with landowners or property owners having no idea what a riparian ditch is and if they had looked at their deeds when they brought the properties it would have been clearly marked on it, would have had it all explained to them and would have known that they should not build anything over a riparian ditch. Councillor Mrs French is saying that the Legal Team at the County Council are looking into this and these property owners are going to be told to move these structures that have been built over them and with this in mind, Councillor Mrs Mayor cannot support approving this application as it is today as there is more that needs to be done before going down this route.
- Councillor Cornwell agreed with Councillor Mrs Mayor comments. He does not feel he is in a position to support this application as, in his view, there are too many ifs and buts and he has concerns over drainage and access.
- Councillor Mrs French asked if the application could be deferred for further information on the drainage and access? Nick Harding stated that technically the application could be deferred by committee, however, members would need to be very clear on the reasons why as there is no objection from the County Council in respect of the access and, therefore, what is the question that members would want to put back to County. He stated, in terms of drainage, the use of a condition to secure surface water drainage details are common and on major schemes consultation with the Local Lead Flood Authority on the drainage strategy for those developments, but this is a minor development proposal and, therefore, there is not the luxury of having the input of the Local Lead Flood Authority, but in this instance there is a substantial sized site and in terms of the proposed drainage solution there is a network of pipes that will collect the water from all of the areas of hardstanding and take it to the bottom of the field into a surface water lagoon before it goes on to be discharged into the riparian ditch and that surface water lagoon can be increased in capacity in accordance with the drainage calculations that will be run as part of satisfying the proposed planning condition. With regard to issue of riparian ownership, the Council cannot be in the position where it is stymying a development proposal because there might be somewhere down the riparian chain someone who has not maintained their ditch appropriately or in the future as there is never going to be a position that every riparian network is going to be regularly surveyed and checked so that it is clear and operational and it would be a civil matter that would deal with any issues of blockage of the riparian network.
- Councillor Mrs French responded that it is not necessarily a civil matter as having worked on this through the County Council there is quite a lot of legal issues and the County Council are taking steps to resolve that as it is an offence to stop water flowing down dykes and it could actually be a criminal offence.
- Councillor Booth stated that the key recommendation here about the flooding issues is 6.2 which talks about a surface water drainage scheme and its future management which follows the principles set out in the adopted Cambridgeshire Flood Water SPD 2016. It has

been some time since he read that SPD, but was quite heavily involved with it as it came to the Drainage Boards and Fenland District Council and part of his concern is this condition strong enough and can it be strengthened in some way, particularly as the applicant has said about getting a proper scheme established and it is debateable about whether it is done at this stage or at the full application stage, and asked for officers advice on whether this was possible. Nick Harding referred to the Chairman adjusting this condition requiring the details to also say that prior to the access way coming into use or first occupation of any dwelling on that site the surface water system is operational and, therefore, as and when you have the implementation of development it is actively being served by the proposed surface water scheme and the condition as it stands does ask for the details of the design to be submitted, which is a regular occurrence in terms of planning consent. The Chairman made the point that he said slab level, but if pushed would support first occupation as he feels the attenuation pond is key to the drainage of this site.

- Councillor Mrs Davis expressed the view that the drainage issues have been exhausted and whilst members might have concerns she feels that what officers are saying has to be accepted. Her concern is more about the access as she feels there is a serious loss of amenity to the existing property and, she knows you must not take into account what might happen, but there could be more than the 8 dwellings in the long-term using this roadway and to have just a couple of metres between your property and the roadway will cause 105 a lot of noise and traffic with vehicles going up and down the side of their property, with the average house having 2-3 cars now. She stated that she would not like it if it was her property.
- Councillor Cornwell expressed the view that Environmental Health have acknowledged something as they are saying that the access should not be a gravel one as gravel makes noise. He feels that members have a responsibility towards everyone else in the area for health and wellbeing and he feels that this proposal will act in a detrimental manner, certainly to Mr and Mrs Gray.

**Proposed by Councillor Cornwell, seconded by Councillor Mrs Davis and agreed that the application be REFUSED against officer's recommendation.**

Members do not support approval of planning permission as they feel that the proposal would have a detrimental impact on the amenity and health and wellbeing of the immediate neighbouring property due to the impact of traffic movements along the proposed access for the development.

*(Councillor Skoulding declared an interest in this application, by virtue of owning Upwell Park which borders the application site, and retired from the meeting for the duration of the discussion and voting thereon)*

*(Councillors Mrs French registered, in accordance with Paragraph 14 of the Code of Conduct on Planning Matters, that she is a member of March Town Council, but takes no part in planning matters)*

*(Councillor Connor declared that Mr Gowler, the agent, is known to him, but this has no bearing on his determination of this application)*

**P71/21**

**F/YR21/0819/FDL**

**LAND SOUTH OF GILLINGHAM LODGE, THE CHASE, GAUL ROAD, MARCH  
ERECT 1 X DWELLING INVOLVING THE DEMOLITION OF EXISTING  
OUTBUILDINGS (OUTLINE APPLICATION WITH MATTERS COMMITTED IN  
RESPECT OF ACCESS)**

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

Members received a presentation, in accordance with the public participation procedure, from Councillor Mrs French, a District Councillor. Councillor Mrs French stated that The Chase is a very important part of March to local residents, with the site already having had refusals which were upheld on appeal and nothing has changed since the refusals apart from the fact that 33 Gaul Road has been developed and is now called Magnolia Close. She expressed the view that during the discussions of the 33 Gaul Road application there were many concerns and objections to the removal of the brick wall that forms the character of the area and it was agreed at that time that the brick wall would remain and remain in perpetuity intact not to be knocked down.

Councillor Mrs French stated that there were many TPOs on this site, but sadly they have all been removed, which she finds disgraceful. She notes that there is no report from the Conservation Officer and would like to know why, especially when part of a character of an area is going to be destroyed. She knows it is not in a Conservation Area, but feels it is a very important part of March and should not be destroyed for the sake of one dwelling.

Councillor Mrs French referred to 5.3 of the officer's report where the Highway Officer states, "if you or members decide to refuse planning permission then arguments could certainly be made on safety grounds and, therefore, refusal would not be an unreasonable conclusion." She made the point that there are hundreds of people using The Chase daily and since the pandemic when walking has become the normal and the construction of this site would be dangerous to pedestrians and it would be detrimental to their health if they could not use it.

Councillor Mrs French stated that The Chase is owned by Fenland District Council and maintained by them and discussions have taken place to acquire the top section, which could possibly affect maintenance as well. She feels to change the access head will not change the issues, as The Chase is not wide enough for cars to pass.

Councillor Mrs French urged members to refuse the application and not destroy the character of this area and remove the enjoyment of many hundreds of residents who use it daily.

Members asked questions of Councillor Mrs French as follows:

- Councillor Booth asked Councillor Mrs French is she believed the application should be refused on highway safety grounds as per the Highway Officer's report and also because of the loss of general amenity? Councillor Mrs French responded that what she read out from 5.3 was comments from the Highway Officer as to justification to refuse the application and appeal several years ago.

Members received a presentation, in accordance with the public participation procedure, from Geoffrey Shaw, an objector to the proposal. Mr Shaw informed members that he has lived in The Chase for the past 14 years so he knows quite a lot about the conditions here. He feels it is important to stress that The Chase is a registered footpath or walkway, and has been so for several generations, it is not a roadway and was never intended to be one.

Mr Shaw stated that a very large number of local people use The Chase to access West End Park and March Town Centre, with a lot of them being disabled people from the home across the road from The Chase, wheelchair users, children, families with small children and dog walkers. He expressed the view that Fenland has always protected The Chase as a public footpath and it is said that motor vehicles and pedestrians on a footpath do not mix, which is why Fenland has refused to allow development along The Chase before now and refused previous applications for this site and the adjacent site of Willow View.

Mr Shaw expressed the opinion that this Fenland policy has meant there has been no safety issue to pedestrians on The Chase in the past because there have been virtually no vehicles on it. He expressed the view that this application would reverse that policy of preventing further development on The Chase and protecting pedestrians on it.

Mr Shaw feels there are a number of fundamental reasons with this application, one is that it puts the safety of pedestrians at substantial risk as you cannot protect pedestrians on a footpath by turning it into a roadway and putting more traffic on it and the description that refers to joint use is a meaningless label, in his view, because this application would lead to far more cars on The Chase than exist currently. He expressed the opinion that there are large safety issues with this application that has been identified by the Planning Inspectors when they refused similar applications before but does not have time to go into all those safety issues now but if members wanted to ask him about them later he would be happy to answer.

Mr Shaw expressed the view that the second problem with this application is that it has a disastrous effect on the amenity value of The Chase to its users because it would degrade and diminish the experience that local people have travelling down it. He feels they would be exposed to greater risk whilst at the same time being marginalised on their own footway and using The Chase would become an entirely different and less rewarding experience, with users not being able to walk casually down The Chase with their dog or family because they would constantly have to be vigilant on the alert and less relaxed.

Mr Shaw referred to the comments of Councillor Mrs French whereby it would damage the integrity of the landscape of The Chase by demolishing a heritage wall which is supposed to be protected. He feels that the vast majority of the people who live in the area do not know about this application as they have not been consulted and, therefore, will only learn about it when it is too late to do anything about it.

Mr Shaw expressed the view that the third reason why this is a dangerous policy that should be rejected is that it sets a precedent for further development along The Chase as what is offered to one applicant cannot be readily refused to another. He feels that members need to choose whether they favour a single applicant with one house to be built or support the broader interest of the majority of the community who use The Chase in an amenable and rewarding way at the moment.

Mr Shaw expressed the opinion that this is a point of no return as this application would be crossing a line that Fenland have previously said you must not cross and asked members to refuse the application.

Members asked questions of Mr Shaw as follows:

- Councillor Connor asked Mr Shaw what safety issues he has in mind? Mr Shaw responded that these are quite clearly stated by the Planning Inspectorate when considering similar previous applications and they made it clear that there were compelling reasons why the development should not be allowed on safety grounds. He stated that they said first of all that allowing even a modest increase in any traffic on The Chase would be an unacceptable risk to pedestrians and he feels that widening The Chase by 1.5 metres will not solve the problems of endangering pedestrians as there still would not be room for 2 cars to pass and where are those pedestrians going to go if they find a large vehicle coming along The Chase. Mr Shaw expressed the view that there is also the problem of larger vehicles reversing up the entire length of The Chase as there is nowhere for them to turn once they access it. He made the point that the Planning Inspector placed a lot of stress on the problems of the junction of The Chase with Gaul Road as they said there was a visibility problem and, in his view, this proposal does not satisfactorily remove those problems and he does not see how they can be removed. Mr Shaw is not sure if Highways visited The Chase, but, in his view, there is no visibility on the eastern side of the junction as this is obstructed by a telegraph pole, a light standard and large commercial vehicle parked in the driveway of the adjacent property and on the other side, the splay that is proposed to be put there still would not give you enough visibility to be safe, so you are going to have pedestrians turning into The Chase without being able to see if anyone is coming. He

stated that the Inspector placed a lot of stress on what they called shuffling in Gaul Road, they said there is a big problem with vehicles attempting to turn into The Chase which is very narrow at the entrance, encountering vehicles trying to come out of it at the same time and this would create a dangerous problem of congestion on Gaul Road, this was 15 years ago and a lot has happened in Gaul Road since then to exacerbate and intensify that danger, it now much busier and has increased the problem. He does not think the problems that the Inspector elaborated on and identified have been addressed by Cambridgeshire Highways in their assessment and he does not feel the proposed solutions about endangering people on The Chase have been answered.

Members received a presentation, in accordance with the public participation procedure, from Matthew Hall, the agent. Mr Hall stated that before the application was submitted there were meetings and discussions on site with Fenland District Council's Assets Department to discuss The Chase, which is owned by the Council, and possible improvements to it. He made the point that The Chase already has streetlights, foul sewer and associated infrastructure and three dwellings at the moment all have access off The Chase.

Mr Hall stated that he has reviewed the previous planning and appeal refusals, which are 18 years old, and, in his opinion, the reason for refusal on each application was The Chase and the junction onto Gaul Road, with all of the previous applications not proposing any improvements whatsoever and this application is the first which proposes improvements to The Chase and to the junction at Gaul Road. He made the point that the Highway Officer has visited the site on two occasions and he has confirmed that he believes the splay can be achieved in both directions on Gaul Road.

Mr Hall stated that they initially proposed a 1.5 metre wide dedicated footway for pedestrians, which would obviously be subject to design agreement with the Assets Department at Cambridgeshire County Council, but on 19 October Cambridgeshire County Council Highways advised that their preference was for a wider carriageway and to tie in with the existing Gaul Road footpath. He expressed the view with the proposed widening of the carriageway it would still be 1.5 metres away from the majority of the wall, which abuts the site next door.

Mr Hall feels that what has not come out of the officer's report is the assistance he has received during this application from Sarah Bell of Fenland District Council and Phil Caves, Cambridgeshire County Council's Highways Officer, to bring this application forward. He made the point that the Council in this report confirm that a bin lorry already enters The Chase to serve the existing properties, which would then serve this site.

Mr Hall made the point the site is in Flood Zone 1, not in a Conservation Area, on the edge of town and improvements are proposed to The Chase. He stated that there have been numerous consultees as well as site visits on this application and no objections have been raised by the statutory consultees, with officers recommending approval.

Members asked questions of Mr Hall as follows:

- Councillor Miscandlon asked whether any assessment has been undertaken of the current motor vehicle usage of The Chase? Mr Hall responded that they had asked for accident data along The Chase and the junction with Gaul Road of which there was none, but there have been no specific surveys of vehicle movements.
- Councillor Connor stated that he had visited the site and is concerned about safety. He acknowledged that an extra 1.5 metres was going to be tarmacked, which will leave just the grass, but to get the entrance to The Chase off Gaul Road without widening is only 3 metres and to achieve the required vehicle access 18 metres of the wall will need to be taken down. Mr Hall responded that only 5 metres of the wall will need to be taken down and explained using the officer's photographs where the wall would be affected.

Members asked officers the following questions:

- Councillor Murphy referred to the history where an application was refused and dismissed on appeal in 2002/2003 and asked what has changed for officers now to propose approval when the traffic is heavier? David Rowen responded that the previous application proposed no improvements to The Chase and this application proposes works to improve The Chase in potentially widening the length of The Chase by 1.5 metres and improving the visibility of the junction with Gaul Road.
- Councillor Cornwell stated that he understands the highway implications at the Gaul Road end of The Chase, but the rest of The Chase is clearly not highway but a Fenland District Council owned footpath, which is in fact a heritage footpath. He asked if the applicant has been asked to survey the pedestrians that use that footpath every day? David Rowen stated that this request has not been made by the County Council's Highway Officer and planning officers are guided by what the County Council says. Councillor Cornwell made the point that it is Fenland property and the footpath is maintained by this Council, the essential grass strips on each side he assumes are maintained by the District Council and there is evidence of damage by large vehicles along this footpath. He would have thought a survey would have been asked for as it is a heavily trafficked footpath as it links that part of March to the Town Centre and safety is an important element of this application. David Rowen responded that whilst The Chase is owned by Fenland District Council, highway safety issues when dealing with planning applications are dealt with by the County Council as they have officers qualified to give advice and no survey work was requested as part of the application. He made the point that the Estates Team have commented on the application and not raised any issues or concerns. Nick Harding stated that it is not uncommon to come across on residential development a shared surface, which is a road shared with pedestrians and vehicles of 4.5 metres width and these roads could accommodate up to 50 dwellings. He made the point that this application is for a lower number of dwellings with 4.5 metres width along the whole length.
- Councillor Cornwell queried the 4.5 metres as he feels it is a varying width and there is a wide grass area. Nick Harding confirmed that the application proposes a 4.5 metre width from Gaul Road up to the application site, where it is currently about 3 metres.
- Councillor Booth referred to the comments made by Councillor Mrs French on why the Conservation Officer was not engaged, but he presumes this is because the site is not in a Conservation Area or a Listed Building? Officers confirmed this to be correct.

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

- Councillor Booth expressed concern over the safety of pedestrians and can remember numerous times when applications have had no highway concerns but councillors have raised valid concerns, but had their hands tied by Highways saying there are no issues. He feels on this application officers are saying there are potential highway issues in 5.3 of the officer's report, which is a reason for refusal, which raises a red flag. Councillor Booth expressed the view that there is an issue with residential amenity and the impact on what is considered locally a heritage asset, although recognising it is not in a Conservation Area.
- Councillor Cornwell stated The Chase is in effect an old established footway, owned and maintained in a certain way by Fenland District Council. He feels the wall is protected by a previous decision of the Council and is confused how officers can recommend that element be changed to remove part of a wall which is protected under a previous decision. Councillor Cornwell made the point that The Chase is a footpath and not a road, with some residents having a right of way over it and the quantity of pedestrians using the footpath is considerable. He feels it is acknowledged that pedestrians and vehicles do not mix and the Council should not be encouraging more traffic to mix and on this basis he cannot support due to health and safety.
- Councillor Connor advised that he visited the site today and he was not surprised to see how many people use this footpath, with a mixture of about 20 people in the 15-20 minutes he was there, which made him think this is a walkway. He referred to his aunt living at 44 Gaul Road and can remember that it was a track in 60's and people were walking down it

then. Councillor Connor feels it does have history and if that wall does have a condition or protection then it should not be touched and queried why officers are agreeing to this proposal now.

- David Rowen stated that as part of the residential development to the west of the site there was a condition imposed on that planning permission for the wall to be retained and the prohibition of any vehicular or pedestrian access being made through the wall onto The Chase. He made the point that this application proposes the removal of a 6 metre span of wall, which would be repositioned and rebuilt, which in officers view does not constitute a significant loss of the wall or its character or the contribution it makes to The Chase.
- Councillor Cornwell queried why this condition should be changed for a heritage asset which is an essential part of the street scene.

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

Members do not support officer's recommendation of approval of planning permission as they feel there is a highway safety issue from pedestrians and vehicular conflict as highlighted in the report from the Highway Officer and the previous appeal decision, there would be a detrimental impact to users by the loss of a general amenity with the nature of the footpath being changed and a detrimental impact on a local heritage asset by the removal of the wall which is protected by a condition on a neighbouring application.

*(Councillor Skoulding declared an interest in this application, by virtue of the application involving a family member, and retired from the meeting for the duration of the discussion and voting thereon)*

*(Councillor Mrs French took no part in the discussion and voting on this application as she had made a presentation as part of the public participation procedure and was, therefore, pre-determined)*

*(Councillor Benney declared an interest, by virtue of knowing and employing the agent and as Portfolio Holder for Assets he has had some minor involvement as the footpath is owned by Fenland District Council, and took no part in the discussion and voting thereon)*

*(Councillors Mrs French registered, in accordance with Paragraph 14 of the Code of Conduct on Planning Matters, that she is a member of March Town Council, but takes no part in planning matters)*

**P72/21**

**F/YR21/0908/F**

**LAND SOUTH AND WEST OF 12 HIGH ROAD, GUYHIRN**

**ERECT 1 X DWELLING (2-STOREY, 4-BED) INVOLVING FORMATION OF A NEW ACCESS**

Alison Hoffman presented the report to members.

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 the Parish Council and was previously considered by the committee last year when members were minded to approve, subject to changes. He made the point that the changes discussed at that time have been made, which were to move the dwelling so it was in line with the neighbouring properties and locating the garage doors to the side from the front to maintain windows to the front elevation, which is consistent with the majority of properties in Guyhirn.

Mr Edwards made the point that the site is in Flood Zone 3, but it is no different to other developments within the village, and a sequential and exceptions test has been carried out as part of the submission, which demonstrated there were no other reasonable sites at lower risk of



flooding available and, therefore, the sequential test has been met. He expressed the view that the site is in a continual line of development extending throughout the village on this side of the road as the majority of Guyhirn can only be developed on one side due to the river and its banks, sites like this are extremely valuable to provide dwellings to sustain facilities in the village.

Mr Edwards feels that Guyhirn has a mixture of dwelling types and this section of the village is no different, with different heights, sizes and styles, and whilst this proposal is larger than neighbouring properties it is consistent, in his view, with other dwellings being built in the village and may be considered aspirational. He stated that as the applicant already owns the land and uses it as his extended garden to the host property and feels surely a mixture of dwelling types should be encouraged.

Mr Edwards expressed the opinion that Guyhirn has seen a modest amount of growth in recent years and needs more development to support amenities in the village and a diverse housing mix is critical not only to Guyhirn but the District as a whole. He feels that the proposal provides the opportunity for a large family dwelling on a very large plot in line with the existing dwellings, with an existing access onto High Road and the host property utilising a new access which has the support of the Highways Department.

Mr Edwards expressed the opinion that the proposal makes the best use of the land, will finish off this part of the village and add a diverse housing mix addressing the points raised at the previous Planning Committee. He asked members to support the application with the conditions they deem appropriate.

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

- Councillor Benney stated that he was at the committee when the previous application was refused as it came forward of the building line with the rest of the road and feels that the agent has taken the advice provided at that time on board. He feels that there is a mix of houses in the area and the proposal might be bigger than some of the other houses but it sits on a massive plot. Councillor Benney agreed that it is an aspirational house, which will make a good home, and feels that LP16 as a reason for refusal is subjective. He reiterated that the site is a large plot, it needs a large house and, in his view, it is in keeping with the rest of the street scene which is a mix of dwellings.
- Councillor Connor agreed with the comments of Councillor Benney, with the applicant/agent coming back with a redesigned scheme that the committee asked them to do.
- Councillor Murphy stated that he cannot personally see anything wrong with this application, which has the Parish Council's support and no objections from the various consultees.

**Proposed by Councillor Benney, seconded by Councillor Skoulding and agreed that the application be APPROVED against officer's recommendation, with delegated authority being given to officers to apply appropriate conditions.**

Members do not support officer's recommendation of refusal of planning permission as they feel that the proposal does comply with Policy LP16 of the Fenland Local Plan as it will make a positive contribution to the character of the area and street scene and is in keeping with the mixture of dwellings in the area.

*(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 was in attendance when this application was discussed, and took no part in the discussion and voting thereon)*

**P73/21**

**F/YR21/1033/F/**

**ELDERNELL FARM, ELDERNELL LANE, COATES**

**CONVERSION OF AGRICULTURAL BUILDINGS TO 1 X 2-BED AND 2 X 3-BED DWELLINGS INVOLVING ERECTION SINGLE-STOREY LINK FOR BARN 2, AND**

## **ASSOCIATED WILDLIFE TOWER INCLUDING DEMOLITION OF 4NO BUILDINGS**

David Rowen presented the report to members.

Members received a presentation, in accordance with the public participation procedure, from Andrew Middleditch, the agent. Mr Middleditch stated that the proposal came before committee in 2018 when it was originally supported and he hoped that members would support this renewal application. He made the point that the scheme is unchanged as are the planning policies which underpin the decision making, but the report and surveys have been updated to ensure the development continues to address ecological, arboricultural and drainage concerns, with their being no objections from the various technical consultees.

Mr Middleditch expressed the view that the proposal is still policy compliant, which is confirmed by officers, and is a sensitive conversion of a range a 100 year old rural buildings, which would secure their viability as buildings of interest and will lead to a positive enhancement of the character and setting of the area. He stated that the marketing of the site coincided with Covid, but in the last six months there has been significant upturn in interest and he is confident that subject to planning being renewed a buyer will be found for the site, which will ensure the scheme can be implemented and the future of the buildings can be secured.

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

- Councillor Benney made the point that the proposal is a policy compliant application. He visited the site yesterday and it will only fall into further disrepair if some action is not taken. Councillor Benney expressed the opinion that it is an excellent scheme, when it is converted it will be a nice property to own and he cannot see anything wrong with the proposal.
- Councillor Murphy agreed as in is in Flood Zone 1, has room for bins, consultees support the proposal and there are all nice big houses in the area and, in his view, this development will complement the surroundings.
- Councillor Booth supported the comments of Councillors Benney and Murphy. He noted the objection from the Town Council, but feels some of their objections have been overcome in the planning application.

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

*(Councillor Mrs Mayor registered, in accordance with Paragraph 14 of the Code of Conduct on Planning Matters, that she is a member of Whittlesey Town Council's Planning Committee, and took no part in the discussion or voting thereon)*

*(Councillor Miscandlon registered, in accordance with Paragraph 14 of the Code of Conduct on Planning Matters, that he is Chairman of Whittlesey Town Council's Planning Committee, and took no part in the discussion or voting thereon)*

**P74/21**

**F/YR19/1106/F**

**LAND EAST OF ST MARYS CHURCH HALL, WISBECH ROAD, WESTRY**  
**ERECT 4 DWELLINGS (4 X 2-STOREY 2-BED) AND ASSOCIATED WORKS**

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

Members received a presentation, in accordance with the public participation procedure, from Robert Wickham, the agent. Mr Wickham referred to the bundles of paper that he had with him, which is evidence of the work that has been undertaken over 3 years with officers to evolve a scheme which is now recommended for approval. He made the point that the initial proposal was for 9, which has been reduced to 4 and officers were keen on the idea of Almhouses, low rise,

subservient to the Church, which he has gone along with.

Mr Wickham expressed the view that the development will not interfere with anybody or provide any harm to the Church. He stated that the Minister of the Parish at the time was keen for small homes and they have to balance the duties under the Charities Act with a need to provide a mix of housing.

Members asked questions of the officers as follows:

- Councillor Mrs French asked for clarification on where the surface water is going and whether it was towards the A141 into the dyke at the front of the Church? Officers responded that this is one of the options available, but from the Internal Drainage Board comments there is also an option to the East and this is why there is a condition requiring the details of this.

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

- Councillor Cornwell stated that he too is attracted by the 2-bed property idea rather than the luxurious dwellings that surround the area. He feels it is a gorgeous site, surrounded by trees and is a very genteel area, which is crying out for development and thinks what is being proposed is appropriate. Councillor Cornwell expressed the view that the proposal protects the Church Hall, which is very much a community facility, and protects the car parking around the Hall, which is important.
- Councillor Mrs Mayor referred to the trees, which are splendid, and there is an in-depth arboricultural report and believes that some trees will be removed, but she would hate to see the whole site decimated. She asked that care is taken and the root structures protected during the development as those trees do hide a multitude of sins from the buildings at the back.
- Councillor Mrs French stated that St Marys Church was badly affected by flooding on 23 December 2020, with the County Council having to pump the Church Hall out 3 times, and there is a riparian dyke, with half of it belonging to the County Council and half belonging to the Church, and on certain occasions when there is heavy rain some of the graves actually move, which has been a problem for several years because it is clay and part of the original pilings. She explained that the dyke has now been cleared out after about 30 years, and the layby to the right of the site has been a flooding issue for many years, but last year she managed to get the County Council to repair the footpath and put a proper drainage system in the footpath because the surface water from the A141 drains backwards into riparian dykes. Councillor Mrs French stated that she has read the Middle Level report and she is concerned if all this water is coming down one way, taking into consideration the development next door, which is Lime Tree Close, which is in the process of being developed and has a drainage issue and they have been told they cannot put the surface water into these dykes and have to take it 1.3 kilometres away, which she find amazing. She does understand that the 8 dwellings to the rear that are completed have linked up to a sewerage system in St Martins Avenue, with the permission of FACT as it crosses their drains, and she believes that the 9 dwellings at Lime Tree Close are in the process of trying to buy a piece of land to the rear which belongs to March Food so they can link up to a sewerage system as the whole of Westry does not have a sewerage system. Councillor Mrs French made the point that she has no problems with the dwellings being built near to the beautiful church and lovely area, but is concerned about flooding issues. She expressed the view that if the surface water goes into that front dyke, which goes up to KFC then under the A141 to Middle Level, and the problem is that KFC has repeatedly had to have the County Council to slurry it out and she is waiting for a report back from County Council on what the problem is. Councillor Mrs French expressed the view that when KFC and Cobblestones were built there was a broken pipe under the main road which caused severe flooding so the more water you put down into this drain the more problems you are going to get. She asked that this development is not allowed to drain into that front dyke, but goes out to the rear.

- Councillor Miscandlon referred to the removal of some trees during the construction of the development and asked if a condition could be placed on any approval that mature replacement trees are located somewhere within the site to replace any that are removed. Councillor Mrs French pointed out that the officer's report does say that 8 trees are to be removed, but these are not the TPOs these are poor quality trees that have self-seeded over the years so she does not think they need to be replaced, but if there is room it would be nice to see them replaced. Councillor Miscandlon stated that it may be found that some of these TPOs do need replacing due to their condition and they should be replaced. Councillor Mrs French responded that the Tree Officer and Enforcement Officer are out doing visits on a regular basis.
- Councillor Mrs French asked that her comments on flooding and surface water are taken into consideration on any approval. David Rowen responded that Condition 7 deals with this issue.

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

*(Councillors Mrs French and Skoulding 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 issues)*

**P75/21**

**F/YR21/1306/F**

**GOLDEN VIEW, NORTH BRINK, WISBECH**

**ERECT 1 X DWELLING (2-STOREY 3-BED) INVOLVING THE REMOVAL OF THE EXISTING MOBILE HOME**

Alison Hoffman presented the report to members.

Members received a presentation, in accordance with the public participation procedure, from Councillor Booth, a District Councillor. Councillor Booth stated that he asked for this application to go before committee because this is an existing site that has been in use for over 30 years now and he feels that the replacement dwelling would be an improvement in planning terms to what is there. He made the point that the applicant has had some integrity issues with the existing property on site and wants to improve the situation.

Councillor Booth explained that he was involved with the previous application on the neighbouring site, which is part of the extended family, and the issues they have in trying to get mobile homes with the safe refuge has been substantial. He does not feel that this site would ever go back to open countryside, it has a long history of planning and although it is classed as an 'elsewhere' location in the Local Plan, in his view, this is one of the older settlement areas in Wisbech St Mary as 100 yards down the road you have Ingham Hall, which is one of the oldest buildings in the Wisbech St Mary parish so to say it is 'elsewhere' is disingenuous to the history of Wisbech St Mary.

Councillor Booth pointed out that there is support from Wisbech Town Council and statutory consultees and, in his opinion, it is just one of the technicalities from planning guidance that is saying it should not be supported but he feels it should be a planning gain that should be supported.

Members received a written representation, in accordance with the public participation procedure, from Alexandra Patrick, the agent read out by Member Services. Ms Patrick stated that the site is located immediately adjacent to a traditional construction bungalow and 2 mobile home properties, which were both previously approved as 2-storey mobile homes that have an appearance very similar to this proposal and were 2-storey as they have a flood evacuation escape on the first floor. She made the point that the mobile homes adjacent to the proposal have conditions on them that a

person of a gypsy/traveller or living a nomadic lifestyle can only stay on site, whilst Golden View's mobile home approval states "Use of land for the stationing of a mobile home and erection of a toilet block (part retrospective)", with the wording of the approval not relating to a direct requirement for a gypsy/traveller to live on site.

Ms Patrick expressed the view that replacement dwelling applications such as this proposal are seen to be appropriate by the Council when considering F/YR14/0609/F (Erection of a 2-storey 4-bed dwelling with detached garage involving removal of residential caravans and existing dwelling), with the former Hazeldene cottage straddling two plots which were separately approved, which was not a clear-cut replacement permanent dwelling for a larger one. She feels the site was utilised to have two modest permanent dwellings replacing the mobile homes as well as an existing permanent residence.

Ms Patrick stated that whilst the site lies outside the established settlement core it does sit within existing approved properties and, in her view, it could be contended that the scheme would represent an "infill" opportunity, which whilst away from the main settlement core would have a direct relationship with its surroundings. She made the point that the site is already being used as residential so there is no loss of agricultural land, it retains and respects the natural features of the site where appropriate and does not result in an important open space within the village being lost and, therefore, in her opinion, is compliant with LP12 and LP16.

Ms Patrick asked members to support the application given the nature of the site and its pre-existing location.

Members received a presentation, in accordance with the public participation procedure, from Mrs Wilson, on behalf of the applicant for the proposal. Mrs Wilson stated that her father first brought the land in 1987 and has lived at Golden View since 1989, with the mobile homes falling into disrepair over the years and needing replacing, which happened in 1999 and resulted in putting on the current twin unit chalet and this is now at the same point. She explained that her father did apply for a bungalow dwelling at the time of replacing the old mobile home, and accepted the no given at that time.

Mrs Wilson stated that her father cannot read and write that well and her younger sister was in primary school, her brother in secondary school and she had just started college and he did not understand planning leaving it to the professionals. She expressed the opinion that her father has not had much luck with the Council and planning, he used to own all the land around the corner at Bevis Lane and at the time did stock car racing, he used to store his cars on the land and was told by the Council that if he did not remove them he would be fined £100 per car per day and was also told that he had to sell the land, with this land now having 5 Gypsy Romany Traveller sites on it, one of which is a local transit site, three executive houses and a bungalow on the corner, which was literally built within months of the land being sold. She made the point that her father cannot understand the difference between him and them but listened to the Council and did what they asked.

Mrs Wilson stated that the current property has also been investigated by the Council a few years ago to change it into a Gypsy Romany Traveller site, however, he was offered way less than it was valued at and could not find another location to replace it. She explained that her mum and dad now have long-term health issues, with her mum relying on the care of her and her brother and the rest of the family.

Mrs Wilson expressed the view that the aesthetics of this proposal is of a similar nature to what has been approved next door for her, however, due to the restrictions the Council put on them they are in a catch-22 situation where they now have the permission granted but are unable to implement it as they cannot get a mortgage because the land has to go back to its original state when they leave it. She made the point that they can get a mortgage as they all have good jobs

but are unable to get a mortgage as they are Romany Gypsies and she does not feel that anyone else from any ethnicity would have this issue.

Mrs Wilson stated that her father could have applied for a day room but it would have to be a two-storey building because of the flood risk and it makes more sense to apply for a chalet bungalow otherwise her father would still have to live in his tourer alongside and would not be able to manage due to his health. She made the point that the proposal has no objections from consultees and letters of support from all the surrounding neighbours, with no additional burdens on any existing facilities as he has lived in the area the longest out of all the surrounding properties.

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

- Councillor Benney made the point this is a home for people and reminds him of a replacement house on a site at Guyhirn near Emblings bus garage, which was looked at in a favourable way. He sees nothing wrong with this application and it will be an improvement to the applicant's quality of life if they have health problems. Councillor Benney expressed the view that Councillor Booth did the right thing calling in the application so the committee could look at it.
- Councillor Topgood echoed the comments of Councillor Benney, with the applicant wanting a permanent location to live with their family, it will help with their health and there has been no objections from Wisbech Town Council or consultees.
- Councillor Mrs Davis stated that she sympathises with the applicant but feels that allowing the application would set a huge precedent for other sites. She made the point that it is a traveller's site and if it is replaced with a permanent home it would allow other similar applications in an 'elsewhere' location against national policy.
- Nick Harding stated that Councillor Mrs Davis raises a good point and in addition it will effectively remove a traveller gypsy pitch if the proposal is allowed, but members may feel that the health factors outweigh the relaxation of policy requirements.
- Alison Hoffman clarified that the consent applicable to Golden View is personal to Mr Cunningham and not explicit in terms of gypsy/traveller status, however, in considering the application for the two adjacent plots they were granted based on gypsy/traveller status and the heritage of the applicants was explored through the documentation supported in that file. She made the point that if this existing mobile home had been specifically restricted to gypsy and traveller accommodation it would have formed one of the reasons for refusal, but because it is personal rather than gypsy and traveller consent that requirement fell away but the principles are still the same in considering future applications, for instance, the two adjacent plots does undermine the case in replacing the temporary accommodation with permanent dwellings although taking on board Mr Harding's comments regarding the specific medical needs of the applicant.
- Councillor Connor made the point that Mrs Wilson commented that they had had the land for around 35 years, he is not likely to sell this property and would continue to live here for the rest of his life. He recognises the comments of Councillor Mrs Davis but feels he could support it if as they have lived here that long and the applicant has health problems.
- Councillor Benney reiterated that they have lived at this location for 35 years and made the point that when talking about travellers they have not travelled far. He feels that there are exceptional circumstances that could be used in this instance, such as Mr Cunningham and his family's health, and his family also living next door.
- Councillor Connor echoed the sentiments of Councillor Benney and applauds what Mrs Wilson and her brother are doing to help their parents with their health issues.
- Councillor Mrs French stated that members have previously given permission on special circumstances and from listening to the presentation she feels this is special circumstances.

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

Members do not support the refusal of planning permission as they feel that the special circumstances of the applicant's health outweigh policy.

*(Councillor Booth took no part in the discussion and voting on this application as he had made a presentation as part of the public participation procedure and was, therefore, pre-determined)*

**P76/21**      **F/YR21/1165/F**  
**LAND EAST OF 24-26 MILL CLOSE, WISBECH**  
**ERECT 6NO DWELLINGS (1-BED, SINGLE-STOREY)**

David Rowen presented the report to members.

Members asked officers the following questions:

- Councillor Cornwell expressed the opinion that the comment about the development will not be detrimental to the street scene is, in his view, an understatement and asked if this is the only piece of land that Fenland has available for this development? David Rowen responded that whether there is alternative land or not is not a consideration as this is the location proposed for this application and it is about whether it is appropriate.
- Councillor Marks referred to the land previously being a car park and asked where the cars are now parking? David Rowen responded that the cars are probably parking on the highway in Mill Close, but the land is not presently being used as a car park.
- Councillor Connor asked for clarification that the residents would only reside at the proposal for a couple of years maximum? David Rowen responded that it is understanding that it is only for short term transit accommodation to remove people from homelessness and to a more permanent form of accommodation.

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

- Councillor Cornwell stated that he welcomes the application to assist the homeless situation, but, in his view, the location seems for these units to be shoved up a corner, which is not ideal to give people a bit more confidence.
- Councillor Mrs French stated that she fully supports this application and knows Fenland has been working closely over the last 22 months with homeless people doing an exceptional job and this proposal helps to give them a roof over their head.
- Councillor Booth made the point that the first step is to have a fixed abode to get on the housing ladder and this proposal is needed to help with this situation.

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

*(Councillor Topgood had left the meeting prior to this application being considered)*

**P77/21**      **APPEAL DECISIONS REPORT**

Members noted the appeal decisions report presented by David Rowen.

*(Councillor Topgood had left the meeting prior to this item being discussed)*