



EAST
CAMBRIDGESHIRE
DISTRICT COUNCIL

AGENDA ITEM NO 3

Minutes of a meeting of the Planning Committee held at 9:15am on Wednesday 7th September 2022 in the Council Chamber at The Grange, Nutholt Lane, Ely, CB7 4EE.

PRESENT

Cllr Christine Ambrose Smith
Cllr David Ambrose Smith (Substitute for Cllr Lisa Stubbs)
Cllr Sue Austen
Cllr David Brown
Cllr Matthew Downey
Cllr Lavinia Edwards
Cllr Lis Every
Cllr Bill Hunt (Chairman)
Cllr Alec Jones
Cllr John Trapp
Cllr Gareth Wilson

OFFICERS

Maggie Camp – Director Legal
Holly Chapman – Senior Planning Officer (in part)
Caroline Evans – Senior Democratic Services Officer
Rachael Forbes – Planning Officer (in part)
Toni Hylton – Planning Team Leader (in part)
Catherine Looper – Planning Team Leader (in part)
Andrew Phillips – Planning Team Leader (Lead Officer)
Dan Smith – Planning Team Leader (in part)
Gavin Taylor – Planning Contractor (in part)
Isabella Taylor – Planning Officer (in part)
Angela Tyrrell – Senior Legal Assistant

IN ATTENDANCE

Parish Cllr Lea Dodds (Burwell Parish Council, Agenda Item 6 / Minute 20)
Charlie Laing (Objector, Agenda Item 8 / Minute 22)
Parish Cllr Anne Pallett (Soham Town Council, Agenda Item 5 / Minute 19)
Nicky Parsons (Applicants' Agent, Agenda Item 5 / Minute 19 and Agenda
Item 11 / Minute 25)
Parish Cllr Richard Radcliffe (Isleham Parish Council, Agenda Item 11 /
Minute 25)
Fiona Regan (Objector, Agenda Item 7 / Minute 21)
Gordon Rusk (Objector, Agenda Item 11 / Minute 25)
Gordon Scott (Objector, Agenda Item 5 / Minute 19)
David Taylor (Applicant's Agent, Agenda Item 6 / Minute 20)
Parish Cllr Charles Warner (Soham Town Council, Agenda Item 5 /
Minute 19)
Sarah Watts (Objector, Agenda Item 6 / Minute 20)
Ronald Wedd (Applicant, Agenda Item 9 / Minute 23)

7 other members of the public.

Cllr Mark Goldsack (Agenda Item 10 / Minute 24)
Cllr Julia Huffer (Agenda Items 7 and 11 / Minutes 21 and 25)

Sally Bonnett – Director Communities
Yvonne Carnichan – Development Services Support Officer
Lucy Flintham – Office Team Leader, Development Services
Annalise Lister – Communications Manager
Sarah Parisi – Senior Support Officer
Adeel Younis – Legal Assistant

15. APOLOGIES AND SUBSTITUTIONS

Apologies for absence were received from Cllr Stubbs.

Cllr David Ambrose Smith was attending as substitute.

16. DECLARATIONS OF INTEREST

Cllr Every declared a prejudicial interest in Agenda Item 5 (21/00291/OUM: Downfield Farm, Fordham Road, Soham) due to being a trustee of a charity with an interest in the application. She stated that she would leave the Chamber for the duration of the item.

9:19am – Cllr Every left the meeting.

17. MINUTES

The Committee received the Minutes of the meeting held on 6th July 2022.

It was resolved:

That the Minutes of the Planning Committee meeting held on 6th July 2022 be confirmed as a correct record and be signed by the Chairman.

18. CHAIRMAN'S ANNOUNCEMENTS

The Chairman made the following announcements:

- 154 affordable homes had been completed in the District during the previous year, the highest number for 10 years. In addition, a further 472 houses were built.
- The Council had been able to confirm a 5 Year Land Supply, and in fact had sufficient land supply for 7 years.
- A new Planning Manager, Simon Ellis, had been appointed and would be joining the Council on 31st October 2022.

19. 21/00291/OUM – DOWNFIELD FARM, FORDHAM ROAD, SOHAM

Catherine Looper, Planning Team Leader, presented a report (X44, previously circulated) recommending approval of an application seeking outline planning permission for up to 210 dwellings including affordable housing and self-build plots and one community building (which would revert to affordable housing should no provide come forward), together with public open space, landscaped buffer, and attenuation basin and drainage infrastructure within a 10.3 ha site. All matters were reserved apart from access which was proposed to be onto Fordham Road, north

of the junction with Orchard Row, and with a second emergency access point to the southern site boundary. The recommendation for approval was subject to the signing of a S106 legal agreement and conditions as detailed in paragraph 1.1 and Appendix 1 of the report, with two minor amendments to the proposed conditions since publication of the report:

To add the underlined wording to condition 2 to read “Approval of the details (excluding the community building) of the layout...”, and in condition 3 remove the crossed through wording to read “Approval of the details of ~~the site of~~ the community building...”.

Members were shown maps, aerial images, and indicative plans to illustrate the site’s location to the south west of Soham and within the countryside as identified in the Local Plan 2015. The site’s north and east boundaries adjoined the settlement boundary and there was a public right of way to the north with a new Hopkins development beyond. The south and west of the site was open and bounded by fields with a public right of way along the west boundary and a public highway to the south. Farm buildings were located in the middle of the site with open agricultural land around them. Various photographs of the site were shown from different vantage points.

The main considerations for the application were deemed to be:

- **Principle of development** – the Council’s position regarding the five-year housing land supply had been set out in full within the report. It was considered that the principle of development in this location on the edge of a market town was acceptable. Policy GROWTH3 required development proposals to contribute towards infrastructure or community facilities and therefore the principle of development for the community building was also acceptable.
- **Affordable housing** – the application proposed either 28% or 30% affordable housing, depending upon whether a provider came forward for a potential community building; the allocated land would be used for affordable housing if the community building was not realised. Both scenarios were at, or very close to, compliance with policy HOU3 of the Local Plan 2015. Minor weight had been applied against the 28% scenario due to its very slight non-compliance and this had been further reduced to very minor weight by virtue of the Council’s own viability assessment. The provision of 59 or 63 affordable housing units was a considerable benefit of the scheme and applied significant positive weight.
- **Self Build** – 5% self-build plots would be secured *via* the S106 agreement.
- **Residential amenity** – changes to the area in terms of the outlook and impact from increased noise and traffic movement were not considered sufficiently detrimental to warrant refusal. Any more localised impacts on residential amenity could be adequately mitigate with appropriate design, separation distances, and building heights. Conditions were recommended regarding construction times and the requirement for a Construction Environmental Management Plan. Full details would be considered at a reserved matters stage but it was considered that an appropriately designed scheme could be brought forward that would prevent detrimental impact to the amenity of neighbouring occupiers.
- **Visual amenity** – an indicative masterplan had shown large areas of open space and landscaped buffers with a gross site density of 21 dwellings/ha and a developable area of 35-40 dwellings/ha. However, the actual

densities would depend upon the detailed design which would need to demonstrate at the reserved matters stage that the proposed number of dwellings could be appropriately achieved with good quality design. The applicant had recognised in email correspondence that predominantly smaller units would be necessary to achieve the proposed maximum of 210 dwellings. The final number of dwellings would be determined at the reserved matters stage and would be informed by all material considerations and planning policies.

The applicant had submitted a Landscape Visual Impact Assessment (LVIA) which concluded that the development would result in limited impacts at localised levels limited to the site area and its immediate context. The LVIA concluded that the landscape and visual impacts would be limited and the proposed development would be acceptable. It was considered that an appropriate scheme could be submitted which provided high quality soft landscaping with the site and towards the site.

- **Highways matters** – in addition to a primary vehicular access onto Fordham Road there would be an emergency access, secured with collapsible bollards, from the unnamed road to the south of the site. The car and cycle parking provision would be assessed at the reserved matters stage but the illustrative masterplan had indicated that sufficient spaces could be provided to accord with policy COM8 of the Local Plan. The Transport Assessment Team had advised that footways on both sides of Fordham Road provided access to the key facilities of Soham town centre, and that public rights of way would be maintained as part of the proposal. There had been no objections from Cambridgeshire County Council Transport Assessment Team or the Local Highways Authority. The S106 agreement would secure upgrades to the existing nearby northbound bus stop on Fordham Road, and £183k towards capacity improvements at the A142/Fordham Road/A1123 roundabout.
- **Flood risk and drainage** – the application proposed sustainable drainage systems (SuDS) to control surface water runoff and rainwater would be dealt with *via* a piped drainage system that would outfall into an elongated wet attenuation pond that would also act as a swale in low flow conditions. This would outflow to the existing watercourse to the north of the site with a restricted outflow. The Lead Local Flood Authority had removed their initial objections, the Environment Agency had raised no objections, and Anglian Water had neither objected nor sought financial contributions.
- **Ecology** – the Wildlife Trust had provided a number of comments in relation to achieving net gain on the site; detailed design would be submitted at the reserved matters stage but it was concluded that a 10% net gain could be achieved. Conditions has been recommended to require a comprehensive scheme of biodiversity enhancements to be submitted with any reserved matters application.
- **Climate change** – it was considered that an appropriate scheme could be submitted at detailed design stage to maximise energy efficiency and incorporate renewable or low carbon sources. A condition requiring submission of an energy and sustainability strategy prior to commencement was recommended.

The S106 agreement would cover affordable housing, lifetime homes, self-build, public open space, SuDS, the community facility or extra affordable housing, a

Soham Commons contribution, the upgraded bus stop and financial contributions to the roundabout improvements, and education contributions.

On balance, the proposal was considered to be broadly compliant with the relevant planning policies and there were no significant adverse impacts that would weigh against the proposal. Members were therefore recommended to approve the application, subject to the signing of the S106 agreement and the conditions as previously advised.

On the invitation of the Chairman, Gordon Scott addressed the Committee as an objector to the application. He expressed his strong opposition to any further permissions being granted for housing in and around Soham since the village he had moved to 50 years ago was becoming a large and disruptive town. The construction process and the new houses destroyed the environment wildlife and birds were being left without habitats in the once-beautiful village. He also objected on the grounds of climate change and global warming.

Cllrs Jones and C Ambrose Smith asked the objector where he considered would be suitable for new homes to be constructed, given the local need for housing. The objector reiterated his opinion that developments were focussed on financial gain for the developer, rather than consideration for the environment, and questioned whether local people would benefit from the new homes.

In response to a question in the objectors' speech, the Chairman explained that affordable housing was a term that included both rental properties and shared equity properties.

The Chairman then invited Nicky Parsons, the applicant's agent, to address the committee. She highlighted that the proposed scheme was for up to 210 properties, including affordable dwellings and 5% self-build plots, together with a community building and with all matters reserved apart from access although an illustrative masterplan had been provided. Discussions had taken place with the Officer and with the community, and the application site had previously been considered by the Council to be in a sustainable location that would benefit the town. Vistry's aim was to deliver much-needed high-quality housing including policy-compliant 28% or 30% affordable homes. The Council had previously accepted that 20% affordable housing was an appropriate District-wide figure. Regarding the community building, the Ward Councillors considered that it would be best delivered on-site to balance community facilities across the town, whereas the Town Council did not believe that it would be needed there. Vistry therefore proposed that, if the Town Council's view proved to be correct, the land allocated for the community building should instead be used for affordable housing (hence the two potential percentage figures for affordable housing). The overall site would include public open space with various uses and would have a 10% biodiversity net gain. There would be jobs and investment during the construction phase and local spending would increase due to the new residents. There had been no technical objections and the application was supported by the Ward Councillors. There had also been no objections from any statutory consultees despite the concerns raised by the Town Council. Significant local benefits would be secured *via* the conditions and the S106 agreement, and the agent urged the Committee to endorse the Officer's recommendation and approve the application.

Cllr Jones asked for more information about the differing views concerning the community building, questioned why only one access point was being proposed, and asked if there were plans to upgrade the drainage since the Town Council had concerns about the drainage in the site's vicinity. The agent explained that Vistry had discussed the community building with the Ward Councillors and with the Town Council; there was general support in principle but the Town Council's preference was for inclusion in the centre of the town whereas the Ward Councillors favoured a spread of facilities by locating the building on the application site. Regarding the site access, Vistry had spoken to the Local Highways Authority prior to and since submission and they had been satisfied with the single access together with a second emergency access point. Regarding drainage, Vistry would provide oversized pipes and a valve pumping station with a capacity greater than would be needed by the site, thereby assisting the overall drainage needs in the immediate area.

Having received confirmation that the development site was outside the development envelope, Cllr Trapp suggested that 30% affordable housing was a low amount for development at that location and also asked if a provider had been identified. The agent commented that recent appeals in similar locations had given weight to affordable housing that was not in excess of the amounts proposed in this application. Initial discussions had taken place with some registered landlords but no decisions or agreements had yet been made.

In response to questions from Cllrs D Ambrose Smith and C Ambrose Smith, the agent explained that Vistry would initially be seeking interest from the District Council and the Town Council regarding management of the green spaces and paths, but a management company would be engaged if neither Council took on the responsibility. The site was designed to be open and accessible to all, and the Planning conditions could ensure that a management company could not take action such as installing fences or removing open spaces.

Parish Cllrs Charles Warner and Anne Pallett were then invited to speak on behalf of Soham Town Council. Parish Cllr Pallett stated that the Town Council's key objections were related to the site's location outside the development envelope, and concerns to do with drainage. The Planning Authority had assured the Town Council that the District had an excess land supply, but the 2015 Local Plan appeared to be being ignored in favour of the abandoned 2017 Plan since development of the application site would be contrary to the 2015 Local Plan. Large developments elsewhere within the development envelope had been approved but not yet completed and the 2015 Local Plan stated that those should be prioritised. Overall, the development was well-designed but the location was wrong for the town. A single access point for the 210 properties onto the busy Fordham Road was a concern and the Town Council did not support the on-site hall. In her opinion, the Local Planning Authority were not protecting Soham and its commons and open land from development; the town was becoming overdeveloped and congested and the infrastructure was insufficient. Fundamentally, the Town Council did not support the application because it was contrary to the 2015 Local Plan.

10:04am - Cllr Downey joined the meeting during Cllr Pallett's comments. The Chairman later stated that, having missed the Officer presentation and part of the public speaking, Cllr Downey would be unable to participate in the debate or voting on this item.

Focussing on drainage concerns, Parish Cllr Warner highlighted that drainage-related conditions from the nearby Morello Chase development had not been adhered to or enforced, and tankers had been used for 4 months after first occupation. Flooding still occurred near the application site. He understood that the Internal Drainage Board (IDB) had not been consulted on the application, which was a concern. Page 21 of the Officer's report included reference to potential risks to a fresh water aquifer, and he considered that the location of interceptor tanks at last 2m below the surface would threaten the aquifer. Page 22 of the report stated that Soham Water Recycling Centre did not have the capacity to treat the flows from the site and he therefore questioned how the contamination control requirements could be met. Should the application be approved, the Town Council requested written assurance that all conditions would be met.

Cllr C Ambrose Smith questioned why an on-site community hall was opposed since it would provide a more local venue for residents. She also commented that she understood that IDBs were consulted on all large applications. Parish Cllr Warner explained that the Town Council considered that money would be better spent on the existing sports hall than on a new community building, and a meeting room close to the application site was available on Staples Lane. He had spoken to the IDB the previous day and been told that they had not been consulted.

Following a request from Cllr Trapp for more information about the Morello Chase concerns, Parish Cllr Warner stated that the development had now been connected to the main sewer but tankers had initially been used. Contrary to the opinions of the District Council and Anglian Water, the Town Council had objected to that development on the grounds that there would be insufficient capacity in the sewer, and during construction it had become necessary to construct a new sewer at a cost of £0.75m. That new sewer would not be able to manage the proposed development, and a new pumping station was also due at this location. In short, there was currently insufficient capacity in the network to accommodate the application site. Parish Cllr Warner also confirmed to Cllr Jones that flooding still occurred in the area outside the public house.

At the request of the Chairman, the Lead Officer, confirmed that the application site was outside the village framework of Soham. Full details regarding the principle of development at this location had been provided in paragraphs 7.4 to 7.15 of the Officer's report, and it was considered to be acceptable due to it being a sustainable location and, as highlighted at a recent appeal, development within the District should be directed at market towns. He also confirmed as correct the Town Council's view that the draft 2017 Local Plan should not be considered or used.

The Chairman invited further comments from the Planning Team Leader in response to the issues raised by the public speakers. She stated that she had spoken to the IDB by telephone about this application and had not subsequently received any written comments. She also explained that there had been extensive discussions with Anglian Water regarding capacity for sewage and foul water from the site. They had advised that work was taking place regarding future investment and no involvement was expected from the developer.

Cllr Jones asked whether the recent appeal decision to the north of Soham had affected this application. The Lead Officer explained that Inspectors' decisions

were a material consideration and, based on recent decisions and the housing supply, Officers now considered that sites on the edges of market towns would be acceptable in principle.

Cllr Trapp noted that the Local Highways Authority had accepted a single site entrance, but he considered that two accesses would be an improvement and he questioned whether they would have accepted that. He also asked about the density of the nearby housing developments. The Planning Team Leader reminded Members that they could only consider the submitted proposal, which had a single access point and an additional emergency access point. Regarding density, the developments to the north and east of the site respectively had gross densities of 26 dwellings/ha (120 dwellings and 6 self-build plots across 4.8 hectares) and 20 dwellings/ha (78 dwellings across 3.85 hectares), including open space.

The Planning Team Leader confirmed to Cllr D Ambrose Smith that Soham did not currently have a Neighbourhood Plan.

The Chairman then opened the debate.

Cllr C Ambrose Smith stated that the application was relatively near to the town centre, included the possibility of a community building, and appeared to be acceptable overall. Although only indicative, the plan seemed generous in terms of open space.

Cllr Jones expressed concern regarding the drainage and reservations about building in the countryside. He was not convinced that there was a need for this development in Soham since there had been lots of recent development, particularly in this area of the town. He considered that more infrastructure was needed before developments such as the application would be appropriate. Cllr Trapp also stated his concerns regarding the drainage, restated his view that a second access point was necessary to ease traffic on the busy section of Fordham Road, and acknowledged earlier comments about the number of sites that had been given planning permission but had not yet been built. For a development outside the development envelope he would expect to see more than the minimum affordable housing provision. He proposed that the application should be refused, against the Officer's recommendation, on the grounds of issues with drainage and road access and insufficient affordable housing. Cllr Jones seconded the proposal.

Cllr Hunt stated that the road to the south of the site was narrow and he therefore considered it logical that there should be no regular access point along that road. He proposed that the Officer's recommendation to approve the application should be upheld.

The Lead Officer reminded Members that there had been no statutory objections concerning drainage or highway safety. The Planning Team Leader added that the conditions requested by those consultees had all been routine.

With the agreement of Cllr Trapp, Cllr Jones revised their motion such that the grounds for refusal would be that the site was outside the development boundary and development would be detrimental to the visual impact on entering the village. The Lead Officer reiterated that the site lay within an area of broad growth by virtue

of being adjacent to a market town, and the Officer's opinion that the principle of development would be acceptable was based upon legal advice, Inspector decisions, and internal considerations. Cllr Jones questioned at what point the growth of a town would cease to be acceptable, if building outside the development envelope was permitted despite a 5-year land supply indicating no current need. The Lead Officer and the Planning Team Leader reminded Members that the site was bordered to the north and east by the development envelope, together with there being houses to the south east, and was therefore considered to be well positioned in relation to built form. Cllr Wilson expressed concern that development outside the boundary was being considered reasonable due to its close proximity, and questioned the purpose of a development envelope if building around the edge of it would be acceptable.

Upon being put to the vote, the motion to refuse the application was lost with 3 votes in favour, 6 votes against, and 0 abstentions.

Cllr Hunt re-stated his proposal to agree the Officer's recommendation for approval, subject to the revised conditions that had been explained in her presentation. Cllr C Ambrose Smith seconded the proposal.

It was resolved with 5 votes in favour, 3 votes against, and 1 abstention:

That planning application ref 21/00291/OUM be APPROVED subject to the signing of the S106 legal agreement and the recommended conditions detailed in Appendix 1 of the Officer's report with minor amendments to conditions 2 and 3,¹ with authority delegated to the Planning Manager and the Director Legal Services to complete the S106 legal agreement and to issue the planning permission.

10:40am – Cllr Every returned to the meeting.

20. 21/00418/FUL – LAND TO THE WEST OF 75-91 THE CAUSEWAY, BURWELL

Dan Smith, Planning Team Leader, presented a report (X45, previously circulated) recommending approval of an application seeking permission for the erection of six dwellings, as three semi-detached pairs, and associated hard and soft landscaping works including resurfacing of the unmade lane off The Causeway and alterations to the associated junction.

Members were shown a site plan demonstrating the location within the development envelope and conservation area, and bordered to the south by a terrace on The Leys, to the east by a terrace on The Causeway, to the west by a footpath and the bungalows of Poplars Close, and to the north by detached houses. Site photographs from within the site and looking along the access road were also shown. A layout plan, floor plans, elevations, and street views illustrated the proposed three uniform pairs of semi-detached houses. The proposal had initially been for seven properties but had been amended to six and they had been

¹ Condition 2, add underlined wording: "Approval of the details (excluding the community building) of the layout..."

Condition 3, remove crossed-through wording: "Approval of the details of ~~the site~~ of the community building..."

repositioned and reoriented to provide parking to the east and private gardens to the west.

The main considerations for the application were deemed to be:

- **Principle of development** – the site was located within the development framework where residential development was supported in principle under policy GROWTH2 provided there was no significant adverse effect on the character of the area. The site had recent previous permissions for six dwellings that had lapsed during the consideration of this application. The principle of development was therefore considered to be acceptable.
- **Neighbouring amenity** – by amending the initial scheme more space had been created between the proposed dwellings and the bungalows on Poplars Close. There was sufficient space between the proposed dwellings and the neighbouring properties that there would be no significant harm from overshadowing or visual intrusion and sufficient distance between the windows and neighbouring houses and gardens to ensure no significant overlooking. The minimum garden lengths were now 15m. All separation distances were included in the report and exceeded minimum requirements. There would be limited overshadowing of the ends of the gardens of properties on The Causeway to the North of the site but it was not considered to be harmful.
- **Visual amenity and historic environment** – the site was located within the conservation area behind the terrace of The Causeway and north of the terrace on The Leys. The re-siting of the houses within the overall plot meant that they were no longer in line with the terrace to the south, but resulted in more spacious gardens and reduced pressure on the existing trees. It was considered that the building line was less important than the impact on neighbouring amenity. Although the height of the buildings (9.2m) was greater than that of the neighbours, it was slightly lower than that which had previously been approved on the site. The design of the dwellings had been improved during the application process and a full soft landscaping scheme would be required by condition to supplement the retained trees and soften the impact of the built development by the use of soft boundaries.
- **Highway safety and parking** – the site would be accessed using an existing access point from The Causeway that currently served other properties and had been the approved access for the previous permissions for dwellings on the site. The Local Highways Authority had not objected to the intensification by the addition of six dwellings, providing that the junction at The Causeway be upgraded from a crossover to a bellmouth. The scheme for this would be conditioned. There was acceptable parking and turning provision in accordance with the Council's parking standards.
- **Ecology** – much of the existing planting on the site, which was former garden land, would be cleared but the trees and hedging to the rear would be partially retained. There had been local concern regarding unassessed garden ponds that the applicant had been unable to survey. The applicant had however entered into a District-Level Licensing scheme in order to compensate for the potential loss of great crested newt habitat on site. The Wildlife Trust was content with the impact, and mitigations and enhancements regarding loss of habitat would be secured by condition.
- **Flood risk and drainage** – the site was located within Flood Zone 1. Surface water would be dealt with *via* soakaways and permeable surfacing, and foul water would be connected to the main sewer. There had been

concern from a neighbour regarding the potential impact on a drinking water borehole but there was no obvious impediment to draining surface water from the site. Detailed drainage schemes would be required by condition.

In summary, the application was within the development envelope at a site where six dwellings had previously been approved. There was an acceptable impact on neighbouring amenity, visual amenity, the conservation area, highways safety, parking, ecology, flood risk and drainage. No significant harm had been identified. The application was therefore recommended for approval subject to the recommended conditions.

On the invitation of the Chairman, Sarah Watts addressed the Committee as an objector to the application. She stated that residents of The Causeway, and Newnham Lane and Poplars Close objected to the application and also had the support of the Parish Council. The proposal was ill-fitting to the area and, due to the downward slope towards the bungalows of Poplars Close would appear to be approximately 10.5m tall due to their additional height and roof space. There was no precedent for 3-storey dwellings in Burwell and in this location they would loom over the bungalows. Although it had been claimed that setting the roof windows at 150cm from floor level would prevent an external view, the average adult would be taller than that. Government publications on Planning policies stated that local communities should be fully involved regarding quality and design of developments and although she had offered to help with the design of the site she had not been included. She had a right not to be overlooked, or to feel overlooked, but her property would be overlooked by all rear windows of the development resulting in no private space. The trees between her property and the application site had initially been deemed to be of poor quality and earmarked for removal, but now appeared to be retained for screening purposes; these two positions were contradictory. The trees were also mostly deciduous and therefore not suitable for screening during the autumn and winter months and could also be damaged in a storm or be heavily pruned or felled in future. The trees were also damaging the pavement and several neighbouring properties had suffered subsidence issues related to the trees which should not be ignored. She also believed there to be inaccuracies in the biodiversity report, which she had brought to the attention of the Planning Officer. In particular, there were owls nesting in the trees, a water vole and newts in her garden and bat boxes on her wall, and a 42sqm pond stocked with frogs and nesting ducks and newts next to the conservation area. She referenced a development of similar houses in Cambridge that had proved costly for the City Council in terms of compensation payments and, whilst recognising that each application was judged on its own merits, urged the Committee to note the similarities and not allow similar mistakes in a village setting. She considered the application to be overbearing, intrusive, and overdevelopment of the site but emphasised that an appropriate design such as bungalows or chalet bungalows would blend with the streetscene and support the growth of Burwell without causing major disruption to existing residents. She asked the Committee to reject the application and prevent urban sprawl within the village.

Cllr Trapp asked whether the objector considered two storey properties to be more appropriate for the site. She confirmed that two storeys would be preferable to the three-storey proposals, subject to window placement and added that the proposed designs at over 9.2m tall were not comparable to the examples of attic conversions in the vicinity because those properties were originally two-storey buildings.

Cllr Edwards asked whether the objector was concerned that the hedging would be removed due the damage it was causing to the footpath, and her property would then be overlooked. The objector confirmed that to be the case. She had initially understood that the arboricultural assessment had indicated they would be removed, whereas they were now proposed to act as a screen.

The Planning Team Leader informed the Chairman that although David Taylor, the applicant's agent, had not registered to speak, he was present at the meeting should Members have any questions for him. Cllr Jones asked whether 2-storey dwellings had been considered. The agent stated that there were properties along The Leys with loft conversions that were therefore 3-storey properties, and the proposed dwellings would be 2.5-storey with the roof windows set high for ventilation rather than viewing purposes. He also mentioned that the properties would be starter homes. In response to questions from Cllrs Downey and Wilson, the agent stated that there was no intention to remove many of the trees along the boundary, but they were of no significance that would make them suitable for a Tree Preservation Order.

Parish Cllr Lea Dodds was then invited by the Chairman to address the Committee on behalf of Burwell Parish Council. He stated that the Parish Council had three main concerns, all relating to safety: safe access to the development; the safety and maintenance of The Leys track; and safety at the junction with The Causeway. Regarding safe access, reference had been made to previous planning permissions for the site, but the current application included a new 8m x 8m turning head at the entry point. Members would have seen on their site visit that the turning head area was used as a parking area for residents of The Leys track. This had been the case for many years and there was no nearby alternative. The track was not adopted and the owner was not known. Although the residents had no legal right to park there, neither did the applicant have a legal right to designate it as a turning head or control the parking there. The plans showed lorries reversing where the track tapered and there was therefore concern that drivers could inadvertently swing the rear across the public footpath that was a popular route for travelling to and from school and nursery. The lack of street lighting would further add to the danger. Regarding safety and maintenance of The Leys footpath and track, the application proposed a permeable tarmac surface for the track but no plan for its future maintenance. The public footpath along the side of the track also needed to be clearly defined and protected. The Parish Council therefore requested that, if approval was given to the application, a condition be added to ensure that the track and road junction be of a standard required for adoption by Highways, including drainage, pavements, and lighting. Finally, regarding safety at the junction with The Causeway, the Parish Council were of the opinion that the proposed upgrade to a bellmouth could decrease rather than improve its safety. The current layout confused motorists and therefore they slowed down, whereas a standard junction would not have that effect. The Causeway was part of a traffic-free section of National Cycle Route 51 and was a busy pedestrian route to the school. If the application was to be approved, the Parish Council asked that speed control measures such as a raised table crossing be installed at the junction with pedestrians and cyclists being given clear priority over motor vehicles.

Cllr Jones asked about the access rights and ownership of the track, and whether the safety concerns about lorries referred to the construction period. Parish Cllr Dodds explained that no owner had ever been identified (efforts had been made

due to the condition of the track) but the adjacent footpath was a public right of way and, by usage, the track was also considered to have public access. The track was already unsafe and an additional six properties with associated cars and deliveries would worsen the situation. He also confirmed that the application site was land that had previously been gardens, but those who parked along the track were the residents of the terrace facing the Leys footpath and not those who had sold the land for development.

In response to further questions from Cllr Trapp regarding the safety along the track, Parish Cllr Dodds stated that it was common to find vehicles parked on the footpath and he considered that safety would be further compromised by the creation of a turning circle in “no-man’s land”. There would be congestion and difficulties with the access whatever arrangements were in place.

Responding to comments raised by the public speakers, the Planning Team Leader stated that, regarding neighbour impact, the separation distances were given in the report and were in excess of those required by the Design Guide with the lower land of the neighbouring bungalows accounted for. The screen planting was not necessarily critical but nonetheless the applicant intended to retain it.

Cllr Wilson questioned the height of the proposed buildings within the conservation area. The Planning Team Leader stated that he was content that the design was of good quality and the Conservation Officer was also content. The buildings would be of a similar scale and a better design than the previously approved pair on the site.

In response to questions from Cllr C Ambrose Smith regarding the suitability of the third storey windows in the site’s location, the Planning Team Leader explained that the roof windows would be approximately 23m from the rear boundary, beyond which was a 2m footpath before the neighbouring garden boundary, and that this represented adequate separation. In addition, the rear windows served bathrooms. The first floor windows were approximately the same height that would be expected for a two-storey building, and then the roof windows would be higher. Whilst he understood neighbouring concerns regarding overlooking, from a Design Guide perspective the Officers were satisfied. Cllr Wilson asked whether opaque glazing had been considered for the roof windows and the Officer stated that he had not considered it to be essential. Although Members could impose additional conditions to those suggested they must be reasonable and necessary, and Members were reminded that the windows served bathrooms.

Cllr Jones questioned the increase from two to four to six proposed dwellings on the site over the course of its planning history. The Planning Team Leader explained that the southern part of the site had previously gained outline and then detailed reserved matters permission for two dwellings, and the remainder of the site had previous outline permission for four dwellings, which gave a total of six for the whole site. Replying to a further question, he explained that the proposed bellmouth junction would be within the adopted highway and would be secured *via* planning condition and as part of the Highways agreement.

In response to questions from Cllr Trapp, the Planning Team Leader explained that a vertical line in the site plan represented a foul main that would need to be diverted prior to construction and would be a matter for the water board by agreement, and

confirmed that permission would be required to fell any trees over a certain size since the site lay within the conservation area.

The Planning Team Leader explained to Cllr Downey that the density of the site would be roughly similar to the surrounding densities although the properties would be taller.

The Chairman then opened the debate.

Cllr Brown considered that the decision centred on Members' judgement between the views of the Officer and their own personal views regarding the impact of the proposed development. He proposed that the application be refused on the grounds that the height of the proposed dwellings would be overbearing and would cause an unacceptable detrimental impact on the residential amenity of neighbouring properties. Cllr Edwards seconded the proposal and commented that the style appeared more suited to a town than a conservation area.

Cllr D Ambrose Smith had little issue with the design but did agree with the Parish Council views regarding access and the turning area, and considered that the proposal represented overdevelopment of the site. Cllr Every agreed, and also understood the neighbour's concerns regarding overlooking.

Cllr Trapp did not agree with the agent's suggestion that the properties would be starter homes, and he considered that they would be excessive for the neighbourhood. Although he had initially been in favour of the development, he had been persuaded otherwise by some of the arguments presented at the meeting.

Cllr C Ambrose Smith considered that the development would be a well-hidden and the heights would not be an issue. She did however understand the Parish Council's concerns regarding access.

Cllr Downey agreed that the proposals did not appear to be starter homes, and he suggested that the site could be better used to provide more smaller homes that would be less impactful and could trigger the requirement for affordable housing.

Cllr Brown, with the agreement of Cllr Edwards, added concerns about the access traffic to the reasons for his refusal motion.

It was resolved with 8 votes in favour, 2 votes against, and 1 abstention:

That planning application ref 21/00418/FUL be REFUSED on the following grounds:

- The height of the proposed dwellings would be overbearing and cause an unacceptable detrimental impact on the residential amenity of neighbouring properties.
- Concerns regarding the access from The Causeway, the turning and access area into the site's parking area, and potential vehicular conflict with the public right of way along the access lane.

11:42-11:45am – A brief comfort break was taken.

21. 21/00703/VAR – LAND ADJACENT TO 2B MOOR ROAD, FORDHAM, CB7 5UR

Toni Hylton, Planning Team Leader, presented a report (X46, previously circulated) recommending approval of an application seeking retrospective permission for the erection of four detached dwellings with garages, outbuildings and associated works. She drew Members' attention to proposed condition 9 which erroneously referenced plot 1 rather than plot 2. She explained that plots 1 and 2 had roof windows but only plot 2 had accommodation within the roof space. Plot 4 did not have a garage. Members were reminded that Fordham Parish Council's comments had been circulated earlier in the week.

A location plan, aerial photograph showed the site's location at the northern edge of Fordham, and a site plan, elevations and floorplans provided further details about the site.

Of the main considerations for the application, visual amenity, highway safety, residential amenity, drainage and flood risk, and ecology and trees had all been discussed within the report.

- **Principle of development** – planning permission had been granted for four single-storey dwellings with garaging, parking and associated site works as a phased development (19/00887/FUL). The principle of development was therefore acceptable.
- **Comparisons with approved scheme** – Construction had now finished and the dwellings were occupied. When compared with the plans approved in 2020 there were several differences: the inclusion of porches; garages rather than car ports on three plots; plots 1 and 2 had first floor windows to the east-facing elevation overlooking the fields on Moor Road; plot 2 had a first-floor bedroom with en-suite shower room and dressing room; plots 1, 3 and 4 had outbuildings; and there were changes to the boundary and landscaping treatments. Images were provided to illustrate all of the changes.

The issues to be considered in determining the application were whether the variations to the agreed plans caused demonstrable harm, and whether the significance of the changes caused demonstrable harm. The fact that the application was retrospective did not constitute demonstrable harm.

The Officer's recommendation was that the application should be approved subject to the conditions detailed in the appendix to the report.

On the invitation of the Chairman, Fiona Regan addressed the committee as an objector to the application. She stated that she was speaking on behalf of other residents as well and that there was significant local anger regarding the application. Fordham Parish Council had vehemently objected and eight residents had also submitted objections; residents and the Parish Council should not be ignored. The developer had been told that deviating from the approved plans would be at his own risk and cost, and ECDC had been alerted as construction took place. The builder had been verbally abusive and threatening when her husband had photographed the site. When approving the development in January 2020, Members had stipulated conditions including that there should be no variations to the roof or car ports and there should be no outbuildings. The builder had not agreed with the conditions or complied with them. The Enforcement Officer had

visited the site and the Case Officer had sought revised plans from the builder on three occasions. By the time the plans were submitted, the properties were complete and occupied. Fencing had also been added and was subject to an enforcement notice. The cost of alterations had always been at the builder's risk and he had profited from the development. In her opinion, the Committee should use their integrity and honesty to refuse the submitted variations in order to uphold that what had lawfully been agreed was what should be built: if there was no enforcement or recourse then there was little purpose to the conditions.

In response to a question from Cllr Trapp, the objector confirmed that the construction had deliberately been undertaken with variations from the approved plans and the Enforcement Officer had stated that the construction was at the builder's risk.

When asked by Cllr Jones whether she objected to all variations on equal terms, she explained that the developer was aware that the veluxes, gable end windows, porches, fences and alterations to the car ports were all contrary to the permission granted by the Planning Committee. Viewed sympathetically, the new owners may have been unaware that they should not construct sheds and other outbuildings.

Cllr C Ambrose Smith commented that the houses were attractive and garages would be more practical than car ports from a storage and security perspective. She questioned what would be the objection to garage doors and to garden sheds. The objector explained that adding doors to the car ports affected the square foot capacity of the plots and increased the total square footage to a level requiring a contribution to affordable housing. She reiterated that the strong objection was regarding the builder having knowingly and deliberately deviated from the conditions that had been imposed in the planning permission. If the houses had been built according to the plans and a subsequent owner had applied for planning permission for additional windows or other alterations that would be a separate matter.

The Chairman then asked the Senior Democratic Services Officer to read aloud the statements supplied by a supporter and by the Parish Council.

Statement from Darren King and Natasha Crotty:

"We are writing this email as residents of 5 Arthur's Way, Fordham.

We would like to share in support of this application.

As residents of the development for over a year and previously as residents of the village and surrounding areas we choose this development because of its location, quality of build, and design, which has taken into account the preservation of its local surroundings with a low profile roof space and traditional brick and flint finish.

We are a young growing family with plans to stay in our home for longevity hence, the need for our upstairs living space.

Since living in our home we have applied a privacy film to the upstairs gable end window following complaints of being able to see into this living space. We

have also invested heavily into our garden space to ensure additional privacy to our neighbours/ walkers and to be considerate of the local wildlife.

We look forward to the apprehension of ongoing disputes coming to a close so that we can move on and enjoy our home in peace.”

Statement from Fordham Parish Council:

“With regard to this application, Fordham Parish Council originally approved the plans on the grounds of affordable housing being available in the form of 4 2-bed bungalows. The site is very far removed from the original plan and has in no way given the village the affordable housing it requires.

It would appear, that the applicant has blatantly disregarded the views of the Residents, Parish Council and indeed East Cambs Planning in what has now been built on the site as it does not resemble the original application at all. As a Parish Council we feel that we have been completely ignored in our efforts to keep the site to its original design and would urge the Planning Department to restore the site to follow the original application. Fordham Parish Council is also very concerned that if this development is allowed to stand, it makes a mockery of the whole planning process which others might be tempted to follow. Having seen this developer apparently “get away with it”, others might be encouraged to flout the views of the Council and local parishioners and this development could set a dangerous precedent in our village, which has blatantly disregarded the basis on which the planning permission was granted.

We have the following statement which we now attach to all planning applications and would ask that no further damage be done to the landscape and wildlife in the area covered under this application.

‘Fordham Parish Council expect all applicants or their representatives to have familiarised themselves with the East Cambridgeshire District Council (ECDC)website. This includes having a full understanding of Trees, Hedgerows and Wildlife. This can be found on the website under 'P' for Planning.

One of the Parish Council's values is 'biodiversity' we uphold this value very seriously. The precious but limited land we have should be preserved and protected for future generations including the wildlife that lives within it.

As a Parish Council we want to support local enterprise and development, but by not respecting our values or to comply with our values may result in a fine by ECDC or a referral to the Cambridgeshire Police Force.

Please support us to support you.”

Cllr Huffer was then invited by the Chairman to speak as the Ward Councillor for Fordham. She stated that there had been issues with the development since before planning permission was granted, but the applicant’s disregard for planning permissions or conditions had exacerbated the situation. In April she had challenged him about the breaking of planning conditions by working on site on a Saturday afternoon and he had stated that there was nothing that either she or the District Council could do to stop him. Shortly before that she had visited the site with the Enforcement Officer due to concern that planning conditions were being breached by constructing rooms in the roof space, which had been conditioned against when the original permission was granted. On that visit, the applicant had demonstrated that there was no staircase and had explained that the large window was simply to provide light for the roof space. Within weeks she saw plasterboarding and lights being fitted and shortly afterwards the new owners

installed their bedroom. Conditions 17-19 of the application referred to policy ENV2 of the Local Plan 2015 which was designed to safeguard the character and appearance of the area; she reminded Members that the site was in open countryside on the edge of the village. In her opinion, the additional large gable windows on plots 1 and 2 intruded into the open countryside and spoilt the character and appearance of the area. The close-boarded 2m high fencing with concrete posts was oppressive and industrial and did not safeguard the character and appearance of the area. Having participated in Planning Committee decision-making she knew the importance of applying conditions designed to preserve the integrity of the surroundings; in this case there had been a deliberate attempt by the applicant to undermine the planning process and she therefore urged the Committee to refuse the application on the grounds of harm under policy ENV2 and send a clear message that unapproved works could not be carried out on the assumption that retrospective permission would be granted. Further, she asked the Committee to issue a Breach of Condition notice, to which there was no right of appeal, citing the breaches of conditions 17-19.

In response to a question from Cllr C Ambrose Smith asking why the work had not been stopped once it was clear that the builder had deviated from the approved plans, Cllr Huffer explained that the applicant had continually stated that he was submitting revised plans, and both the Agent and the Planning Team Leader had worked very hard to obtain those plans.

The Chairman invited comments from the Planning Team Leader, followed by questions for her from Members. The Planning Team Leader stated that, if the Committee were to refuse the application then enforcement action would be necessary and would most likely be regarding refusal of the current application rather than as a breach of conditions.

Cllr Downey asked for further explanation since the builder had breached the original conditions. The Planning Team Leader explained that the issue was a variation of the approval, which was the subject of the current application, and therefore the refusal of the variation is what would need to be enforced. The Lead Officer added that although the Council could enforce the lack of compliance with some conditions, if the current application was refused then the developer would be likely to appeal the decision and if the Inspector upheld the appeal then the enforcement notice would have no weight. Cllr Downey then questioned why the Officer report recommended approval. The Planning Team Leader explained that she shared the frustration about the manner in which the application had been developed, but in determining any application, including retrospective applications, it was necessary to consider whether the proposal caused demonstrable harm. In this case, the changes were not considered to cause demonstrable harm and therefore approval was recommended.

Cllr Every recognised the general angst but was also concerned for the residents who had bought their homes in good faith and asked about the practicalities if the application was refused. She also asked whether a refusal could be overturned at appeal due to no demonstrable harm. The Planning Team Leader stated that any enforcement action would need to be taken against the current owners, and confirmed that there would be the opportunity to appeal against a refusal.

Cllr D Ambrose Smith asked whether the Committee could approve the application and also fine the developer for a breach of condition; now that the properties were occupied he echoed Cllr Every's concern about practicalities. The Planning Team Leader stated that that would not be within the remit of the Planning system and was therefore not an action the Committee could take.

Cllr C Ambrose Smith asked whether the planning permission could be revoked and the entire scheme be revisited. However, she recognised that this would leave the residents in an impossible position should permission then be refused. The Lead Officer explained that planning permissions could be revoked but he understood that the Council would then be liable for compensation to the value of the properties since permission had originally been given. He also explained that the original conditions did not mean, for example, that no outbuildings could ever be constructed, they did however require permission to be sought for any such changes.

Cllr Trapp suggested that the development did cause demonstrable harm to the residents of Fordham and the Parish Council, and to the power and authority of the Planning Committee. The Planning Team Leader reiterated her understanding of the frustration surrounding the application. However, from a Planning policy perspective, a builder's attitude or a retrospective application were not reasons for refusal. Cllr Hunt expressed agreement with Cllr Trapp's position.

Cllr Jones asked for the Officer's view on the likelihood of a successful appeal against a refusal, and asked whether the initial proposal of car ports rather than garages had reduced the need for an affordable housing contribution. The Planning Team Leader stated that there would be potential for a successful appeal, and explained that there had been a change in the NPPF regarding square footage for requiring affordable housing but, at the point of approval, garages rather than car ports would have taken this development over the threshold. However, recent discussions with Housing Officers had suggested that this applied only to developments of more than 10 houses, rather than being purely based on floor space. In response to Cllr Trapp, the Planning Team Leader stated that the site permission had never been for affordable housing, and the Housing Officer had stated that it did not meet the criteria for affordable housing.

Cllr Wilson asked whether the additions windows and rooms would increase the floorspace and therefore increase the CIL charges, and if so would approval generate additional CIL payments. The Planning Team Leader confirmed this to be the case and explained it would be attached to any approval as an informative from a different department.

The Chairman then opened the debate.

Cllr Jones stated that he considered the builder to have taken advantage of the Council. However, the Council could be liable for costs in an overturned appeal. He concluded that he would very reluctantly be in agreement with the Officer's recommendation but the Council should reclaim the CIL and any other appropriate charges. Cllr Brown agreed, and added that any other course of action would be damaging to the current residents. He expressed regret that the development had not been halted before the properties were sold. Cllr C Ambrose Smith added that the builder had shown no regard for good practice.

Cllr Downey stated that the Committee should enforce the rules. He considered that demonstrable harm had been caused since the Committee had previously deliberated and then imposed conditions which should now be enforced. If the application was to be approved then the setting of the previous conditions should be reviewed and thought given to how conditions should be imposed in future. Cllr Trapp added that the owners may have indemnity against the developer, and questioned why the building work had not been stopped since the Enforcement team should be ensuring building works were in accordance with plans. In his opinion the application caused demonstrable harm to the neighbours and to the wider community, and an Inspector would find a development to be incorrect if the built form differed from the plans. He therefore proposed that the application be refused.

Cllr D Ambrose Smith proposed that the application be approved for the benefit of the residents, but the applicant be fined £50k for the breach of conditions. The Director Legal reminded Members that issuing a fine would not be within the remit of the Local Planning Authority.

Cllr Every understood Cllr D Ambrose Smith's sentiment and agreed with all comments regarding the appalling practice regarding the development, but proposed that the application be approved since refusing it would penalise the residents rather than the builder. The Chairman asked Officers whether there was a mechanism to ensure maximum compliance, for example with CIL, should the application be approved. The Planning Team Leader explained that there was an informative for recouping the CIL. Cllr Hunt then stated his agreement with the sentiments expressed by Cllrs D Ambrose Smith and Huffer, but faced with the reality of the options available he unfortunately agreed with the officer recommendation subject to maximum compliance and CIL receipts, and he reluctantly seconded Cllr Every's proposal.

With regard to Cllr Every's concerns about the impact on the residents, Cllr Downey asked what would be the effect of the application being refused. The Planning Team Leader explained that, subject to any appeal being dismissed, the residents would be required to revert to the original plans by removing the additional windows, porches, garage doors and outbuildings, and the additional bedroom in plot 2.

Cllr C Ambrose Smith questioned why the purchasers' solicitors had not flagged these issues, and Cllr Wilson asked whether broken conditions could be recorded with the Land Registry. The Director Legal stated that without unless enforcement action had been taken the solicitors' searches may not have shown any information. Enforcement actions would be recorded on Local Land Charges but not at the Land Registry.

The Director Communities then informed Members that any additional CIL would be recouped from the occupants rather than the builder, since the landowner would be liable. On being asked by the Chairman whether the Committee had any options that would affect the builder rather than the residents, the Lead Officer explained that any enforcement action or CIL payments would be for the landowner because upon purchase they took responsibility for the land. He reminded Members that the Planning process controlled developments rather than people, and that the

Committee's responsibility was to judge each application on its merits rather than the individuals related to it.

Cllr Downey suggested that the application be deferred in order to seek a resolution that would not penalise the owners. The Director Legal explained that if the developer had already paid the CIL for the development then the owners would only be liable for the additional payments related to the porches, garage and extra bedroom. Members needed to consider the merits of the application before them and her advice to the Committee was that there were no reasons relating to Planning considerations that could be used for deferral.

Cllr Wilson commented that, if faced with an unexpected bill relating to the site, the new occupants could choose to pursue the developer *via* legal routes rather than pay it themselves. He felt that all Committee members opposed the actions of the developer, but there were no Planning reasons for refusing the application.

Cllr Trapp reiterated his view that there was a matter of principle involved, and he considered this to be an Enforcement issue rather than a Planning issue. He also considered that the owners should seek redress from their conveyancer for failing to recognise that the properties were not in accordance with their plans and there was no reason not to refuse the application.

It was resolved with 9 votes in favour, 2 votes against, and 0 abstentions:

That planning application ref 21/00703/VAR be APPROVED subject to the recommended conditions detailed in Appendix 1 of the Officer's report, with "...Plot 1..." corrected to "...Plot 2..." in Condition 9.

The meeting was adjourned at 12:50pm.

The meeting resumed at 4:00pm.

22. 22/00127/VAR – LAND EAST OF ORCHARD COTTAGE, 11 CHAPEL LANE, REACH, CB25 0JJ

Gavin Taylor, Planning Contractor, presented a report (X47, previously circulated) recommending approval of an application seeking permission to vary some elements of previously-approved 19/01439/FUL for the erection of a single dwelling and associated access. He drew Members' attention to the various items of additional information that had been supplied to them earlier in the week, including an amended site plan, an updated arboricultural impact statement and an agreement to precommencement conditions, and some further representations. In addition, a statement from the Ward Councillor to be read aloud at the meeting included the suggestion for additional condition to ensure that the surface of the driveway would drain within the site in a bound material; Officers were in agreement that a suitable condition should be added to those already detailed in the report's appendix.

A location plan, aerial photograph, photographs of the site and nearby properties, and site plans for the previously-approved application and the current variation were provided. The site was located on a rural road within the conservation area of Reach, in the rear garden of 11 Chapel Lane and with the listed building "White

Roses” to the west. To the south was a more built-up area of the village. The application included a wider driveway for greater parking provision, meaning that the dwelling would be approximately 1m further south, and a heat pump would be located at the rear.

4:06pm Cllr Jones joined the meeting.

Images of the approved and proposed elevations and floor plans were provided to show the proposed addition of a canopy over the front door, additional rooflights and ground-floor windows, and revised internal layout. The proposal would site the dwelling approximately 40cm higher than the approved design since the initial archaeological dig, and drainage investigations, had indicated that a higher position would be better for less intrusive foundations. Images were provided to illustrate the difference with respect to the neighbouring Dolphin Cottage. Variations were also proposed in terms of render rather than brickwork and again, images were provided.

4:08pm Cllr Austen joined the meeting.

The main considerations for the application were deemed to be:

- **Principle of development** – the application was a variation of an approval granted in 2020. The principle of a dwelling in this location was unchanged.
- **Residential amenity** – the amendments were not considered to result in overlooking, overshadowing or overbearing and would afford future occupants with a good sense of amenity. The air source heat pump was acceptable, subject to a compliance condition controlling noise, and could in any case be achieved through permitted development. The existing conditions secured under the original permission would also protect amenity. Full details were provided in section 7.2 of the report.
- **Visual amenity and impact on the historic environment** – additional windows and rooflights to the ground floor and rear of the dwelling would not increase harm to the area or to the setting of the listed building. The increased height would not result in substantial harm to the conservation area or the listed building over and above that which had already been permitted. The increased driveway width would not harm the character of the area, and could provide benefit to residents given the on-street parking issues. The existing conditions secured under the original permission would also protect the character of the area.

The original planning permission included a condition requiring a sprinkler system but the applicants had requested a revised condition stating that the system should only be required if specified by Building Regulations. This was considered to be an acceptable change.

In summary, the proposal sought to make minor material amendments to the permitted scheme, through S73 of the Town and Planning Act 1990. The effect of approving the application would be to re-issue a planning permission and therefore any relevant conditions and obligations from the original permission should be re-imposed and any appropriate additions made. In determining the application, only the disputed conditions should be considered, rather than revisiting aspects of the prior approval. The proposed changes were considered to be minor and would not substantially alter the scale or nature of the development and, subject to

appropriate conditions, would not give rise to unacceptable impacts on residential amenity, the historic environment, highways, biodiversity or drainage. The application was therefore recommended for approval.

The Chairman stated that, having only missed a small part of the Officer presentation, Cllrs Jones and Austen would be able to participate in the debate and voting on this item. He then invited Charlie Laing, an objector to the proposal, to address the Committee.

The objector explained that he was speaking on behalf of the residents of seven properties along The Hythe all of whom had objected to the original application on the basis of drainage, road safety, parking, the impact on a listed building, and the site being in a conservation area. That application had been approved by the Committee by a single vote and had included digging down in order to minimise the impact of overlooking on the listed building opposite and to be sensitive to the conservation area; these considerations had not changed. It was unclear which variations were being considered since two sets of amendments had been submitted and the plans were not clear. The altered siting and design and material details were of concern to the conservation area. Although the changes may appear to be minor, the objectors considered that the original application may have been refused if they had been part of that application. They urged the committee to reject any increase to the ridge height and to retain the originally agreed plans.

Cllr C Ambrose Smith questioned why the seemingly minor alterations would be objectionable, and suggested that an additional off-street parking space and a heat pump would be positive changes. The objector stated that all of the revisions could have been in the original application, but the main concern was the additional height. The plot was set on a bank and therefore already set above The Hythe, so any increase to the height would be significant. The applicants had initially proposed to lower the land which suggested that they were aware that the height would be an issue.

Cllr Trapp questioned whether the main objection was that the variations could have been incorporated in the original plans. The objector reiterated that the applicants had initially sought to reduce the impact of the height, since nothing had changed in that regard the proposed increase in height was a concern.

The Chairman asked the Senior Democratic Services Officer to read aloud the statements submitted by a second objector and by the Ward Councillor, Cllr Charlotte Cane.

Statement from Tim Clutton-Brock and Dafila Scott:

"We would like to object to the proposed increase in height of the planned house on land to the east of Orchard Park, 11, Chapel Lane, Reach.

The proposed site of the house will already place it substantially above the roadway and the Drying Green on the Hythe. When the original plans were put to the planning committee, the ridge height was identified as a potential problem and the committee were finely divided on whether to grant permission for a building on the site at all, though it was eventually passed by one vote.

The Hythe is a conservation area, and with an increased ridge height, the house will appear even more out of place. A 41cm increase in ridge height represents a substantial increase which we believe will raise it above the height of the nearest neighbouring house. Had the original plans included a ridge height of this level, it is possible that planning permission would have been refused. We consequently think that the applicants should keep to the ridge height of the house as agreed in the original plans and we urge the committee to reject any increase.”

Statement from Cllr Cane:

“Thank you for reviewing this application at Committee. I apologise that I cannot be present and am grateful to the Officer for reading out my concerns.

I also regret that Reach Parish Council will not be present. I queried with the previous Officer on 9 May whether or not Reach Parish Council had been consulted but received no response. I asked again on 17 August and was told that the consultation email had been sent in February. The Clerk confirms that she did not receive that email. It is disappointing that Reach Parish Council has not been given proper chance to comment, despite my raising it as an issue back in May. Once the Parish Council had been consulted on the latest version of the variations on 26 of August they were unable to call a quorate meeting prior to your meeting due to holidays and other commitments and the notice period required for meetings. The Committee therefore does not have the benefit of the Parish Council’s views.

I am concerned about:

*The revised height of the roofline;
Moving the footprint of the building closer to Dolphin Cottage (also known as Black-eyed Susan), combined with the addition of an air source heat pump;
The very large drive and parking area;
Not requiring frosted windows; and
Not requiring the brickwork to be agreed.*

The revised height of the roofline

The building appears to be the same height as the approved plans, but the ground level will be reduced by less than planned, meaning that the roofline will be about half a metre higher. This will make it more dominant. The report states that the roofline will be lower than that of the listed building. I am not sure that is correct, because the roofline is measured from ground level and this site is roughly 1m higher than the ground level opposite. Even with the planned reduction in ground level, I think the new roofline would be higher than that for White Roses if measured from sea level, and will therefore be higher visually. Furthermore, there are windows in the front roof which would be about half a metre higher than originally proposed and therefore could overlook White Roses, a listed building.

Moving the footprint of the building closer to Dolphin Cottage (also known as Black-eyed Susan), combined with the addition of an air source heat pump

Moving the building about 1m south takes it closer to the cottage and garden of Dolphin Cottage/Black eyed Susan. The addition of the ground source heat pump could cause noise nuisance to the residents of that property – even with

the proposed conditions. 1m may not seem much, but it could make a significant difference to noise levels in what is currently a very quiet country lane. NB the plan with this report may not be clear to the Committee – Dolphin Cottage is the small cottage immediately next to the development site. The wording 'Dolphin Cottage' on the plan is in the garden of 9 Chapel Lane.

The very large drive and parking area

The proposed drive is very large and risks creating an urban feel to this country lane. But my bigger concern is water run off if the drive is not fully permeable. Waste water management is already an issue in the Hythe, I would not want this drive to add to those problems. If the Committee is minded to approve these variations, I would ask that a condition is included that the drive must be fully water permeable and not have any hard surface.

Frosted windows

The reason for requiring frosted glazing in original condition 17 was “To safeguard the special architectural or historic interest, character and appearance and integrity of the Conservation Area and the setting of the Listed Building, in accordance with policies ENV2, ENV11 and ENV12 of the East Cambridgeshire Local Plan 2015”. These windows will still be in a Conservation Area and within the setting of a Listed Building. The condition requiring frosting should therefore be retained.

Brickwork to be agreed

Original Condition 10 in fact requires:

“No above ground construction shall take place until a sample panel measuring no less than 1 meter square has been constructed on site showing details of the proposed brickwork; including colour, texture, bond, pointing and mortar mix to enable a site inspection and agreement in writing by the relevant officer. The panel shall remain on site for the duration of the development and once the development is completed the sample panel shall be removed. All works shall be carried out in accordance with the approved details.

10 Reason: To safeguard the special architectural or historic interest, character and appearance and integrity of the Conservation Area and the setting of the Listed Building, in accordance with policies ENV2, ENV11 and ENV12 of the East Cambridgeshire Local Plan 2015”

This reason remains – the building is in a Conservation area and in the setting of a listed building. The condition allows the brickwork, pointing and mortar mix to be agreed and for an example to be retained so that the building conforms to what was agreed. If most of the building is to be rendered, it would be better to reword this condition than to remove it. eg:

“No above ground construction shall take place until a sample panel measuring no less than 1 meter square has been constructed on site showing details of the proposed brickwork and rendering; including colour, texture, bond, pointing and mortar mix to enable a site inspection and agreement in writing by the relevant officer. The panel shall remain on site for the duration of the development and once the development is completed the sample panel shall be removed. All works shall be carried out in accordance with the approved details.”

This is a really sensitive site and it is critical that the appearance of this building respects that sensitivity.

If the Committee is minded to approve these variations, I would strongly support the suggested conditions plus retaining the original condition 17 requiring frosted windows and the original condition 10, possibly reworded. I am particularly concerned about the archaeology. As the County Archaeologist has noted "significant archaeological remains of medieval and post medieval date survive in the area". This is a fascinating part of Reach and could give insights into the full extent of the Devils Dyke and when it was reduced, as well as the extent and operation of Reach Port. A proper programme of archaeological investigation is essential before development commences and this should cover all areas which will be disturbed in any way."

In response to the comments of the public speakers, the Planning Contractor stated that he was satisfied with the character effects of the drive but agreed that a condition could be added regarding the surface water run-off. In terms of brickwork, the majority of the building would be rendered and a brick panel was therefore not needed.

Cllr Jones questioned whether the increased ground height was necessary from an archaeological or drainage perspective, or purely a preference, and asked about the ridge height. The Planning Consultant stated that he was not aware of a specific requirement but the applicants had indicated that they considered the revision to be more in keeping with the neighbours as well as reducing any archaeological impact. Some mitigation had been requested regarding archaeological finds. A topographical survey had measured the ridge heights of White Roses and the properties adjacent to the north and south of the site at 12.9m, 12.78m and 12.5m respectively. The proposed amended ridge height for the application was 12.51m.

Cllr Trapp commented that he remembered the first consideration of this application and a key condition had been the completion of a comprehensive archaeological survey of the site before commencement. He therefore questioned whether the variation in ground height was to avoid the responsibility of archaeological excavations. The Planning Consultant explained that the applicant had already undertaken preliminary archaeological investigations and there would also be a condition regarding a watching brief when the foundations were excavated. Cllr Trapp also noted that the initial presentation had incorrectly referenced a ground source heat pump rather than an air source heat pump, and he was concerned that the latter could be noisy. The Planning Consultant confirmed that the application included an air source heat pump, and stated that restrictions could be imposed regarding noise; a condition had been proposed.

Cllr Brown questioned why there was no requirement for an electric car charging point since it had previously been agreed that such a condition be imposed on all new-builds. The Planning Consultant explained that a recent change to Building Regulations required charging points for all applications submitted after 15 June 2022 and therefore a condition was no longer required to that effect.

The Chairman then opened the debate.

Cllr Jones recognised the need to consider the raised height, but since the adjacent properties were of a similar height he did not consider this to be a reason for refusal. Cllr C Ambrose Smith commented that the application appeared to be a series of small and acceptable alterations, in particular the second parking space would be beneficial in the small lane.

Cllr Trapp commented that the original proposal had also included two parking spaces, but by widening the area the spaces could be used in parallel. However, from a procedural perspective he was concerned that the Parish Council had not been notified, particularly since the site was located in a sensitive conservation area. The Planning Consultant explained that an email was sent to the Parish Council on 8th February 2022 and subsequent checks had shown that it left the Council's email system. Therefore, although it was unfortunate that the Parish Council had not received it, due process had been followed. Following a question from Cllr Jones, the Senior Support Officer explained the consultation process for all applications and the checks that were in place.

Cllr Brown considered the variations to be minor and understood that improvements could be considered by applicants after an initial permission had been granted. He therefore proposed that the variations be approved, in line with the Officer's recommendation and subject to an additional condition regarding drainage of the driveway. Cllr C Ambrose Smith seconded the proposal. The Planning Consultant explained that the conditions would not specify a particular surface treatment, rather it would specify a bound surface and for surface water from the driveway to drain within the site and not onto the highway.

It was resolved with 10 votes in favour, 0 votes against, and 1 abstention:

That planning application ref 22/00127/VAR be APPROVED subject to the recommended conditions detailed in Appendix 1 of the Officer's report and an additional condition to ensure that surface water from the driveway would all drain on-site and not onto the public highway.

23. 22/00431/FUL – REDTILE FARM, FEN LANE, SWAFFHAM BULBECK

Rachael Forbes, Planning Officer, presented a report (X48, previously circulated) recommending refusal of an application seeking permission to erect a new dwelling following the demolition of a barn for which permission had previously been granted for conversion under Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015.

Members were shown location and site plans, aerial images, and photographs taken from and towards the site highlighting its location within Flood Zone 1 in open countryside to the west of Swaffham Prior and north west of Swaffham Bulbeck. Proposed elevations and a floorplan were provided and were similar to those granted prior approval for the barn conversion.

The main considerations for the application were deemed to be:

- **Principle of development** – prior approval had been granted for the conversion of a barn to a dwelling under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development)(England)

Order 2015 – agricultural barns to dwellinghouses. The barn had since been demolished and consequently the conversion under Class Q could no longer take place as there was no building to convert. A structural report submitted with the original application had concluded that the building was capable of conversion. Partial demolition for a Class Q conversion was permissible for the installation of windows, doors, roof, exterior walls and necessary services, but did not allow total demolition. It had been established in case law that permitted development rights could represent a fall-back position for alternative proposals at the same site. However, such a position only existed when there was a realistic prospect of the development proceeding. Following the demolition of the barn, there was no prospect of the conversion taking place, and therefore there was no fall-back position. With no barn to convert, and no fall-back position, the application was for a dwelling in the countryside. It was outside the development envelope, not located at a market town, and did not fall within one of the exceptions listed in policy GROWTH2. It was therefore contrary to the policy and unacceptable in principle.

- **Visual impact** – the proposed dwelling would be on the same footprint and scale as the previously approved conversion and of a similar appearance. It would therefore not result in significant harm to the character and appearance of the area. However, the red line of the application was significantly larger and the use of the land as garden land could result in incursion of domestic land into agricultural land in a manner that could not be controlled by condition. The proposed long driveway and turning head would result in further encroachment into the countryside. Although fairly isolated, due to the public rights of way along the access and the north eastern site boundary the site was visible from the public domain. The proposal was therefore considered to be contrary to policy ENV1 of the Local Plan.

The only dwelling in close proximity was the existing dwelling at Redtile Farm, there had been no objections from the Local Highways Authority or the County Footpaths team, and adequate parking had been provided. An Ecological Impact Assessment had been submitted demonstrating that a net biodiversity gain was possible on the site. There had been no objections from the Environment Agency or the Internal Drainage Board, or from the Council's Scientific Officer in relation to contaminated land. In respect of climate change, a rainwater harvesting system was shown on the plans. However, these considerations were not considered to outweigh the visual harm of the proposal or that it was unacceptable in principle, it was therefore recommended for refusal.

The Chairman asked the Senior Democratic Services Officer to read aloud a statement supplied by Ronald Wedd, the applicant, after which members could ask questions of the applicant.

"I believe that by introducing Class Q regulations the Government wanted any redundant or unusable agricultural buildings to be converted to homes. I also believe the Government want us to construct well-built, well-insulated, low carbon homes, which is what I am trying to do. This application has come about because of a difference in the interpretation of the Class Q regulations."

According to the rules around Class Q regulations, it allows the installation or replacement of windows, doors, roofs, exterior walls, water drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwelling house and demolition is also allowed to the extent reasonably necessary to carry out building operations listed.

I have the plans (the same plans I am using for this application) showing the exterior and floor plan that have been approved by the Planning Officer to gain Class Q approval.

After the Planning Officer carried out an on-site inspection of the outside of the barn, I had Fordham Consultancy Ltd carry out an inspection and make out a report which went to the planning office, from this same report my architect used the information to draw up detailed plans that was send to Planning and Building Regulations for approval.

Approval was given {after the addition of a fire sprinkler system and a Y turning head for a 12.5 ton fire appliance.) The plans clearly show and it states in the text that the foundations are to be mass concrete of 450mm wide and 1 metre deep. They did not say the foundations had to be underpinned and that I must leave the existing foundations in place. The plans also state that the brickwork must be constructed with semi-engineering bricks. The original bricks were commons and not semi- engineering bricks so these would need to be replaced. This can only be completed by removing all of the wooden structure that is built upon the brick work. The plans also show that the timber stud frame was to be 50 x 150mm; the existing frame did not meet this requirement. Surely if there were any issues with the construction plans, it should have been highlighted by the planning or Building reg's department before any permission given and not after I had started construction to the approved set of Building plans.

I would also like to draw attention to the fact that I especially asked the Building Regulations Office (when I informed them I was going to start work) if I could take the barn down, to which the reply was: 'Ask the architect', which I did. The architect told me it would have to be dismantled.

On the planning permission approval it states that I had to comply with all Building Regulations. The plans that were passed by Building Regulations showed the construction was of new footings, brickwork and frame work. Therefore I was complying with the approved plans, If the plans had stated Parts of the barn must be retained I would have approached it in a different way.

After the first visit from Building Reg's officer to advise me on the foundations, i.e. the excavation of the footings, I received an email from the Enforcement Officer suggesting that I stop work (not that I must) which I did voluntarily. I arranged an on-site meeting including myself, the architect, the Planning Officer (who came with her senior officer) and the Enforcement Officer which resulted in this application.

By giving me approval under the Class Q regulations, the Planning Office has admitted that there is no practical reason to turn the application down. As for the partly constructed road, it is needed for access to the farm and the fire

engine access in emergency. I am only trying to build to the some set of plans that have already been approved. I have already installed the BioDisc Wastewater Treatment Plant and I have already purchased the 5,000lt rain water harvesting system (both shown on approved plans). My intention is to install solar panels to help power the heat pump to reduce running costs in the winter and feed power in to the grid particularly in the summer. My intention is to incorporate as many power saving measures into the build as is practical. I would not have spent hundreds of hours and many thousands of pounds on this project so far if I did not believe I had all the necessary planning permissions in place.

I would like to remind the committee that my neighbours and the parish council support the application. I should make it clear that this is not a profit making exercise, it is for me to retire to and have a home I can afford to run on a pension and be easy to maintain and live in for the rest of my life on the farm that I was born on in 1954, or at least until I must go into an Old Peoples' Home.

I may have made some mistakes but I believed I was working to the spirit of the Class Q Regulations.”

In response to a question from Cllr Jones, the applicant stated that he did not know whether he would be permitted to rebuild the barn. Cllrs C Ambrose Smith, Wilson and Trapp all asked further questions about the timeline and the discussions with the Council. The applicant explained that he had submitted an application to convert the barn and had then met the Planning Officer on-site and discussed it with her. At that point he had highlighted the creosote on the outside since he was unsure whether that would be acceptable for Building Regulations. He was then given Class Q permission for the conversion and had not undertaken any works prior to receiving it. The plans approved by the Building Regulations office showed the foundations to be deeper than the existing foundations and therefore the barn had been dismantled since new foundations were required underneath it. That had proved to be a mistake and he would have approached it differently if he had realised. He emphasised that the proposal was for a dwelling of the same size and appearance as the originally approved Class Q application.

The Chairman then asked the Senior Democratic Services Officer to read aloud a statement supplied by a supporter.

Statement from Sophie Singleton and Mr & Mrs Moxon:

“The residents of Cowbridge Farm and The Gatehouse, of Fen Lane, Swaffham Bulbeck jointly support the above planning application. The dwelling will blend in with the current buildings at Red Tile Farm, since it will be on the existing footprint, conforming fully to building regulations and more importantly, will be sustainable; thereby setting a new standard for the rest of Swaffham Bulbeck to follow.”

The Chairman invited comments from the Planning Officer and questions for her from Members.

The Planning Officer commented that permission had been granted to convert the barn to a dwelling. The next time that the Planning Department had been involved

with the site the barn had already been demolished and they were therefore unable to advise against demolition since it had already occurred.

Cllrs Downey, Jones, Trapp and C Ambrose Smith questioned the Officer as to whether various alternatives could be considered acceptable, including: construction of a new barn on the current footprint; considering the previous barn to be undergoing extensive renovation; considering the proposed dwelling to be an annex or affordable housing; construction of a park home in place of the proposed dwelling. The Planning Officer, Planning Team Leader and Lead Officer explained that once the barn had been fully demolished and cleared it could no longer be considered to be a conversion or a renovation and without explicit permission for re-erection it could not be rebuilt. As a result, the proposal had to be considered to be a new dwelling in the countryside. Although it was a small dwelling it did not meet the strict definition of affordable housing for the policy GROWTH2 exception rules, neither could it be considered to be an annex or extension. Although some permitted development rights existed for the construction of agricultural buildings intended for agricultural use, even if that were permissible in this location it would not enable the applicant to convert the potential new barn into a dwelling since the Class Q regulations stipulated minimum agricultural usage times of at least 10 years prior to conversion. Regarding the suggestion of a park home, the issue of permanence was not the material consideration in this case.

Cllr Every questioned whether the sole reason for the application was that the applicant had made a mistake by demolishing the barn. The Planning Officer explained that if the barn had remained *in situ* and the problems relating to conversion had then arisen, a fall-back position of a replacement dwelling could have been considered. The Planning Team Leader added that a requirement of a Class Q permission was that the building was capable of conversion, and it was the responsibility of the applicant to demonstrate that their plans were accurate and could be implemented.

Cllr C Ambrose Smith asked about the likelihood of a successful appeal against refusal given the unfortunate set of circumstances. The Lead Officer stated that the Council had won previous cases of this nature and, to the best of his knowledge, had won all GROWTH2 appeals since the Council had achieved a 5-year land supply for this type of application. He reminded Members that the application was for a dwelling in the countryside, with no fall-back position, in a location outside of the market towns. The Lead Officer confirmed to Cllr Hunt that the application was in direct conflict with the 5-year housing supply.

Cllr Trapp recalled a previous replacement barn conversion elsewhere in the District which had been refused by the Committee and then allowed at appeal. The Lead Officer stated that in that instance there was a Class Q permission in place and the applicants then requested an alternative design for the dwelling. Because the barn remained *in situ* and had permission for conversion, that application could be considered as a replacement dwelling. For the application under consideration, there was permission for a barn conversion but because the barn no longer existed there was nothing to convert and therefore the permission was irrelevant.

The Chairman opened the debate and stated that the Officers had clearly explained why the application did not comply with the rules and he therefore proposed that the application be refused.

Cllr Wilson disagreed and stated that this was a clear case of a rule having been breached by accident. He did not consider that approval would set a precedent since this was a unique situation, and the proposal was for a small eco-friendly house, which should be encouraged. He proposed that the application be approved, and Cllr D Ambrose Smith seconded the motion. Cllr Downey agreed that the situation was unique and it was evident that the applicant had been intending to follow the rules and had simply made a mistake.

Cllr Brown questioned whether the Class Q permission could allow Members to argue that there had been a dwelling before demolition, and therefore permit the new dwelling under one of the various reasons allowing replacement dwellings in policy HOU8. The Planning Team Leader stated that in order to be considered a replacement dwelling, the previous building would need to have been in use as a dwelling. He reminded Members that, in principle, Planning policy did not support the application. However, he recognised that in practical terms, the outcome would be little different from the approved conversion. It was for Members to decide whether to issue a decision that was not compliant with policy. The Lead Officer reminded Members that the Officer had given two reasons for the recommendation of refusal, and the proposer and seconder subsequently amended their proposal to address both.

It was resolved with 9 votes in favour, 2 votes against and 0 abstentions:

That planning application ref 22/00431/FUL be APPROVED on the grounds that it was an entirely unique situation and would not bring detrimental harm to the countryside.

It was further resolved:

That the Planning Team Leaders be given delegated authority to impose suitable conditions.

24. 22/00459/FUL – 47 WEST STREET, ISLEHAM, CB7 5SD

Isabella Taylor, Planning Officer, presented a report (X49, previously circulated) recommending refusal of an application seeking permission for a single storey side/rear extension following the demolition of the existing side extension.

Members were shown location plans and an aerial photograph indicating the site's position within the development envelope of Isleham, adjacent to the conservation area, and almost opposite a listed building. Existing and proposed floorplans and elevations demonstrated that the proposal would be wider and deeper than the existing dwelling with a more prominent extension that was considered to dominate the host.

The main considerations for the application were deemed to be:

- **Impact on the character of the streetscene** – as shown in photographs and proposed elevations, the property was one of an identical pair of late 19th century semi-detached cottages. The proposed extension would unbalance the pair and would also be out of keeping with the more traditional properties further along West Street.

- **Design quality** – photographs and proposed illustrations were used to show that the rear of the property would be disproportionate in scale and size and would not be complementary to the host.
- **Impact on the character of the conservation area and listed building** – looking from the conservation area towards the application site a large tree obscured the proposed location of the extension but that could not be relied on in perpetuity and without it the proposed elevation would be prominent. The Conservation Officer had suggested suitable amendments but they had not been accepted by the applicant. Paragraph 202 of the NPPF stated that negative impacts of developments close to a conservation area needed to be weighed against the public benefit. However, there would be no public benefit from this proposal.

Although the application was considered to comply with all relevant policies regarding the principle of development, residential amenity, and highway safety and parking, it would be visually harmful and have an adverse impact on the character of the streetscene. The design quality was also unacceptable and the proposal therefore failed to comply with policy ENV2 of the Local Plan 2015. In addition, the proposed extension could be seen from the nearby listed building and conservation area and would result in less than substantial harm to the heritage assets while providing no public benefit. It was therefore contrary to policies ENV11 and ENV12 of the Local Plan 2015. For both of these reasons the application was recommended for refusal.

The Chairman asked the Senior Democratic Services Officer to read aloud a statement submitted by the applicant.

“My apologies for being unable to attend the planning committee meeting on Wednesday 7 September. I have prepared a short statement which I would like to have read on my behalf:

I recently lost my job, after 23 years as an aircraft fitter, having been assessed as potentially disabled and being medically unfit for the tasks my job involved. This was because of a long standing and worsening back injury.

Because of the current design and layout of my kitchen and bathroom life has become increasingly challenging. In the winter months, I have to put washing on a rack and manoeuvre it in and out of the tight space of the shower tray to dry it, reversing in and out. The current shower room is so small I can't even fold the rack down in there. Recently whilst suffering from two prolapsed discs, moving my washing became excruciating and I realised what old age could hold for me if my disability progresses. I also need a level floor removing the need to step up and down into the kitchen. If I end up more severely disabled and in a wheelchair, I will need better access in and out of the house without the current need to manoeuvre through tight corners and up and down levels. I have worked with my architect to ensure the planned extension is designed to overcome these existing problems.

The current kitchen is of single brick construction and uninsulated, and therefore very cold. I need a kitchen, bathroom and utility room, which meet and exceed today's building standards. I would also like enough room to put in

a kitchen/dining table, something I've never had due to the current layout and resulting lack of space in the property.

I was very keen to ensure that the extension would be in keeping with the character of the house and sympathetic to the surrounding properties. When the proposed plans were presented at the Isleham Parish Council meeting their decision on the submitted design was unanimous and they recommended approval.

In some of the correspondence between myself and the district council there has been comment that the proposed plans are larger than the footprint of the property and as such would be disproportionate. I enclose pictures of the ground plan from the 1938 deeds. This clearly shows the footprint of 47 West Street incorporating the original ground floor kitchen/bathroom. The proposed plans are not actually any larger than this original footprint.

I hope you will be able to support this application and I look forward to hearing your decision”

On the invitation of the Chairman, Cllr Goldsack, County Councillor for Isleham, then addressed the Committee. He explained that the application site was not within the conservation area, and commented that the nearby Merry Monk was in the conservation area and had been painted black the previous year without planning permission. The applicant had provided evidence that although the proposed footprint would be larger than that of the current building, it would not exceed the original footprint. The properties opposite the Merry Monk were relatively new and he considered that the proposed plans represented an improvement to the building and to the immediate area of the corner plot. He stated that the Parish Council had approved the application and he reiterated that the application was not within the conservation area and, in his opinion represented an acceptable and reasonable extension to the existing dwelling.

When asked by Cllr D Ambrose Smith whether he believed that the application would have an adverse impact on the character of the streetscene, Cllr Goldsack stated that he believed it would result in an improvement.

In response to a question from Cllr Downey, he explained that although he was not a member of the Parish Council he had been at the meeting in May where this application had been discussed and there had been no objections.

The Chairman invited comments from the Planning Officer and then questions for her from Members.

The Planning Officer explained that although the site was not in the conservation area, policies stated that a property visible to and from the conservation area would affect the character of it. Although she considered that the proposed extension would have an adverse impact she was not suggesting that no extension could be permitted.

Responding to Cllr Jones, the Planning Officer drew Members' attention to paragraph 5.1 of her report where the Conservation Officer's comments were

detailed. His concerns and suggestions had related to both the size and the materials of the proposal.

When asked by Cllr Trapp for further detail about the design quality, the Planning Officer explained that the proposed use of cladding would introduce a new material and the scale of the extension would be disproportionate to the host. There would be a 95% increase in the ground floor size, which was significantly more than the dwelling could take. Responding to further questioning from Cllr Downey, she reiterated that the host dwelling was a small-scale semi-detached property and a large extension to the rear would be disproportionate as well as being visually prominent due to the corner plot. Regarding cladding, Cllr C Ambrose Smith suggested that it would assist insulation and therefore questioned why it was not considered suitable. She also asked whether it would be possible for the applicant to gain the space he required. The Planning Officer explained that the building and the site had constraints and there were other ways to insulate homes. Amendments had been offered to the applicant but not accepted. A rendered finish and a smaller size would be more appropriate.

Cllr Wilson asked whether the applicant had sought any advice from the Council regarding the application. The Planning Officer stated that there had been no pre-app but amendments had been suggested following the Conservation Officer's comments in an effort to reach a compromise that would be policy-compliant and suitable for the area as well as providing the level floor and other elements needed by the applicant. The overall goal was to work proactively with applicants to gain approval for their schemes.

Returning to considerations of scale, Cllr C Ambrose Smith questioned whether a smaller extension could provide the interior space needed by the applicant, and Cllr Every referred to the information indicating that the original footings had been larger than the proposal. The Planning Officer stated that it would be possible to gain sufficient internal space without a 95% increase to the ground floor, and explained that the original 1938 plans showed the site not to have been a corner plot at that time so there would have been no inter-visibility. She also informed Members that there was no planning permission in place for the existing rear extension which appeared to be linked-up outbuildings.

The Chairman opened the debate and proposed that the application be approved on the grounds that it would add to the amenity of the area and, although not in the conservation area, it would enhance it. Cllr Downey seconded the motion and Cllrs Brown, C Ambrose Smith and Jones agreed that the proposed extension would be an improvement.

Cllr Trapp agreed with the principle of approval but in light of the Conservation Officer's comments, and the impact of the site on the nearby conservation area, suggested that some revisions should be made. Cllr Wilson suggested that a condition should be added requiring the materials to be agreed with Officers. The proposer and seconder agreed.

It was resolved with 10 votes in favour, 0 votes against, and 1 abstention:

That planning application ref 22/00459/FUL be APPROVED on the grounds that it would add to the amenity of the area and would enhance the adjacent conservation area.

It was further resolved:

That the Planning Team Leaders be given delegated authority to impose suitable conditions, including a condition requiring the materials to be agreed with the Planning Authority.

6:10-6:15pm – A brief comfort break was taken.

25. 22/00462/FUL – LAND ACCESSED BETWEEN 2 & 4 FORDHAM ROAD, ISLEHAM

Holly Chapman, Senior Planning Officer, presented a report (X50, previously circulated) recommending refusal of an application seeking (part-retrospective) permission for the erection of four two-storey detached dwellings together with garages, parking spaces, and associated infrastructure within a wider Bloor Homes Homes development of 125 homes along Fordham Road in Isleham. Members' attention was drawn to the update sheet circulated earlier in the week which included information about the build stage as well as comments from the applicant's agent regarding appeal costs. In terms of the planning history, a similar application (21/01636/FUL) had been recommended by Officers for approval and had been refused by Committee at the April 2022 meeting. The Officer's report and the relevant decision and Minutes had been included as appendices to this report. The current application was "part-retrospective" due to the build stage having reached roof strut level.

Members were shown a site plan and various site photographs illustrating its location within a wider development site of 125 dwellings and adjacent to properties along Hall Barn Road. A streetscene image and elevations and floorplans were also provided together with images for the proposed boundary treatment and a cross-section to demonstrate the separation between plot 116 and no. 35B Hall Barn Road.

The main consideration for the application was whether the proposal had addressed the Council's previous reason for refusal in relation to the significant detrimental harm to the residential amenity of the Hall Barn Road properties, primarily due to loss of privacy.

- **Trees** – trees in the gardens of the new properties would be outside the control of the Hall Barn Road properties to which harm had been identified. Soft landscaping, including trees, could not be relied upon in perpetuity to make an unacceptable scheme acceptable. In addition, there was potential for trees that would be a suitable size for screening to have a detrimental impact on the prospective owners of the new properties due to overshadowing and potential structural damage. Any such issues would increase the potential for the trees to be removed.

- **Fencing and trellis** – the proposed fencing and trellis would provide insufficient screening to the Hall Barn Road properties from the first floor windows of the proposed dwellings.

Since the previous refusal, the Isleham Neighbourhood Plan (INP) had been made and therefore needed to be considered. The site lay within the development envelope and therefore complied with INP policy 2. The applicant had agreed to a condition regarding solar panels, and therefore complied with that element of INP policy 3. However, the significantly detrimental residential amenity impacts to Hall Barn Road properties, as identified by the Council refusing application 12/01636/FUL, would be contrary to INP policy 3.

In summary, the application proposals, as revised, were not considered to have made any material changes to the previously-refused 21/01636/FUL that would address the Council's reason for refusal or that would affect the Council's previous decision. On that basis, the application was recommended for refusal.

The Chairman then invited Gordon Rusk, an objector, to address the Committee. The objector explained that he was speaking on behalf of the residents of 35A and 35B Hall Barn Road and stated that minimal changes had been made by Bloor Homes to try to address the refusal of their previous application. Isleham Neighbourhood Plan 2022 Policy 3 stated that development should not result in unacceptable impacts on the amenity of occupants of neighbouring or nearby properties. Bloor Homes had repeatedly stated that they would reduce the impact of the buildings on existing neighbouring dwellings and yet the application did not substantially change the fenestration. In addition, it was clear from the stage of construction that for two of the four buildings the rear en-suite window had not been retained and a larger bedroom window had been incorporated instead that would increase overlooking. Bloor Homes proposed planting trees to help with screening but no further details had been supplied, and if they were restricted to the 2.6m maximum height imposed on the buffer zone then they would not screen the upper windows of the plots. In addition, future privacy could not be guaranteed if the trees failed or the owners removed or reduced them. Bloor Homes had proposed a 40cm increase to the existing boundary fence and a 40cm trellis; this would not negate overlooking and since the trellis would be attached to the Bloor Homes side of the fence it would again be out of the control of the Hall Barn Road residents. He rebutted comments in Bloor Homes's Planning Statement regarding a betterment for residents of neighbouring properties and material changes having been made to address the amenity impact, and he questioned what had been considered to be more sensitive about the existing properties where new bungalows had been specified. He recognised that the distances between the properties were in accordance with design specifications, but stated that the compact nature of the site and the collective windows of all four windows would increase the overlooking and overbearing and therefore reduce the privacy.

There were no questions for the objector.

On the invitation of the Chairman, the applicant's agent Nicky Parsons addressed the Committee. She explained that the scheme was similar to that which had previously been refused, contrary to the Officer's recommendation. A suggestion to move the windows had been unacceptable to the Officers and no suitable alternative was agreed. The original proposal had been policy-compliant and that

remained the case for the new proposal. Two legal opinions had been sought to confirm this and both had been shared with the Council. She stated that Officers had confirmed that an appeal would probably be allowed and costs would be awarded against the Council. Bloor Homes would much prefer to agree a scheme and had reluctantly appealed against the previous refusal, and would be similarly reluctant in their application for costs; submission of the current application was evidence of their preference for local resolution and she had been instructed to withdraw the appeal immediately upon approval of the current application. Following the previous refusal a meeting was held with the Case Officer and Team Leader where landscaping was discussed. She stated that Officers at that meeting had confirmed that the landscape buffer to the rear of the Hall Barn Road properties was designed to protect the residents' amenities and enable delivery of two-storey properties. The Isleham Neighbourhood Plan had been cited as a material change since the previous application, and had cited that the proposal would be contrary to policy 3. In her opinion this was not sound planning judgement and the Officer's recommendation should be based solely on the current application rather than referring to the Committee's decision on previous applications. No information was provided in the report regarding what the significant harm would be or which properties would be affected, and professional planning opinion on relevant planning policies was absent from the report. No feedback had been received from Officers regarding suitable boundary treatments, nor had the applicant been given the opportunity to explore ways to address issues such as retention of the boundary treatment for example by conditions or private covenants. She confirmed that Bloor Homes would be willing to remove the height restriction that had previously been included in the covenant for the buffer zone. She requested that the Committee approve the application.

When asked by Cllr Brown why the building works had continued while the appeal was in progress; the agent stated that she was unable to answer since she was not the developer.

Cllr Wilson questioned why a high wall had not been proposed rather than the potentially temporary measures of a fence or trees. The agent stated that fences and trees could be retained in perpetuity *via* a condition or covenant and were therefore not a temporary solution. A wall had not been considered and no feedback had been received from Officers regarding boundary treatments.

Cllr C Ambrose Smith asked whether the plots were originally planned as bungalows; the agent explained that the parameter plans showed up to two storeys in that location. Cllr Downey questioned why the Parish Council had been of the impression that the plots would be single-storey. The agent stated that the Parish Council believed that to have been promised prior to the initial application but the applicant said that guarantee had not been made.

Cllr Trapp shared his view regarding unrealistic previous marketing of the plots for self-build, and asked for the agent's opinion. She declined to comment since the obligation for self-build had ceased and was therefore no longer relevant.

The Chairman then invited Parish Cllr Richard Radcliffe to address the Committee on behalf of Isleham Parish Council. He stated that the Parish Council were glad that the Isleham Neighbourhood Plan (INP) had been adopted and therefore weight could be given to it in the consideration of this application. The INP sought to

ensure that there were no unacceptable impacts from development, and this application clearly had unacceptable impacts as had been clearly shown in various photographs. The detail of the application was poor and did little to address the issue of overlooking. Although the fence would reduce the ground-floor concerns it would not affect the line of sight to and from the first floor and none of the proposed mitigations would be present in perpetuity. He requested that Bloor Homes return with a proposal for bungalows so that the entire development could be completed.

Cllr Downey asked why the Parish Council had thought bungalows would be provided, and whether they felt that would allay the privacy concerns due to the reduced height. Parish Cllr Radcliffe stated that the Parish Council had understood that bungalows would be constructed along the edge of Hall Barn Road, which included the application site. That had been the case further along the road. Regarding privacy, he commented that it would be interesting to see the proposed landscaping on such an application.

Cllr Huffer was then invited by the Chairman to address the Committee in her role as Ward Councillor for Isleham. She reiterated the views of the Parish Council and condemned the attitude of Bloor Homes for continuing to build the houses despite refusal of the previous planning application. The overlooking could not be addressed by a boundary wall of a reasonable height due to the amount of overlooking. She had been present at a meeting between residents and the previous director of Bloor Homes where bungalows had been promised. The current proposal was therefore in direct contravention of those promises made by the previous director to respect all of the Hall Barn Road residents, and was causing stress to those in the shadow of the houses. She urged the Committee to refuse the application

Cllr Trapp asked whether any records existed of the meeting with the previous director. Cllr Huffer stated that she believed one resident had email records but was too stressed by the ongoing situation to participate further. There had been at least ten people present at the meeting which had involved reasoned and constructive conversation.

Cllr C Ambrose Smith suggested that if Bloor Homes were willing to construct a boundary wall then that could be discussed with the residents. Cllr Huffer reiterated that bungalows would be more appropriate.

On the invitation of the Chairman, the Senior Planning Officer responded to various issues raised by the public speakers:

- The outline and reserved matters planning permissions had agreed in principle that two-storey dwellings could be erected at this location, but that did not mean that they must be two-storey.
- Discussions had initially focussed on reaching an acceptable fenestration solution, when this had proved unsuccessful attempts had been refocused on fencing and trellising. The applicant had been advised in April that in the Officer's professional opinion trellis and/or planting would not be an acceptable boundary solution.
- The Council had received the Counsel's opinion supplied by Bloor Homes and had then sought their own legal advice as well. The Minutes of the application decided in April showed that Members had been advised of the

likelihood of an appeal and the possibility of costs, which was not out of the ordinary, and the outcome would necessarily lie with the Planning Inspectorate. Discussion regarding self-build was also recorded in the Minutes of that meeting.

- Covenants were not a Planning matter and were therefore outside the control of the Local Planning Authority
- The sole consideration for this application was whether the changes had addressed the Committee's previous reasons for refusal. Whilst this was unusual, the Officer's report had been prepared on that basis.

Cllr Jones asked about the agent's assertion that Officers expected an appeal decision to go against the Council. The Senior Planning Officer stated that, at the April Committee meeting Officers had recommended approval of the application and had advised Members that Officers considered it to comply with the relevant Planning policies. The Lead Officer added that, at the April meeting, Officers had explained that the back to back distances between the properties could result in a successful appeal from the applicant and the potential for costs to be awarded against the Council. However, their view was that any such costs would be significantly lower than the £50k suggested by Bloor Homes.

The Chairman then opened the debate.

Cllr Downey commented that he considered the applicant's approach to the self-build plots and the provision of bungalows to have been tactical, as was the suggestion that the previous appeal would be withdrawn if the Committee approved the application. Although the agent had implied that the Officer had not given her professional opinion in her report, he had not read it in that way.

Cllr Brown stated that he had not been at the April Committee meeting where the previous application was refused, but after reading all of the information and listening to all of the presentations he saw no evidence that the new application addressed the previous reasons for refusal.

Cllr Wilson considered the applicant's attitude to be unfavourable and he proposed that the application should be refused, as recommended by the Officer. Cllr Hunt seconded the proposal.

Cllr Jones agreed that there were no material changes in comparison to the previously-refused application and stated that appropriate solutions for the Hall Barn Road residents should be found. Cllr Trapp commented that the applicant appeared to have acted in a confrontational manner and had not demonstrated consideration for the neighbouring properties.

It was resolved unanimously:

That planning application ref 22/00462/FUL be REFUSED for the reasons detailed in paragraph 1.1 of the Officer's report.

The meeting concluded at 7:00pm.