

PLANNING COMMITTEE



WEDNESDAY, 13 NOVEMBER 2024 - 1.00 PM

PRESENT: Councillor D Connor (Chairman), Councillor C Marks (Vice-Chairman), Councillor I Benney, Councillor Mrs J French, Councillor R Gerstner, Councillor S Imafidon and Councillor E Sennitt Clough,

APOLOGIES: ,

Officers in attendance: Matthew Leigh (Head of Planning), Gavin Taylor (Principal Development Officer), Tom Donnelly (Senior Development Officer), Stephen Turnbull (Legal Officer) and Jo Goodrum (Member Services & Governance Officer)

P57/24 PREVIOUS MINUTES

The minutes of the 16 October 2024 were signed and agreed as an accurate record.

P58/24 F/YR24/0085/O LAND SOUTH OF 19 BLACKMILL ROAD, CHATTERIS ERECT UP TO 5 X DWELLINGS (OUTLINE APPLICATION WITH MATTERS COMMITTED IN RESPECT OF ACCESS) WITH HIGHWAY WORKS

Tom Donnelly presented the report to members.

Members received a presentation, in accordance with the public participation procedure, from Victor Joyce, an objector. Mr Joyce stated that he was representing the residents of Blackmill Road and Fairview Gardens and made the point that the revisions to the application, included a revised certificate C, which he believes is a type of ownership certificate, but the applicant does not own any part of the drove. He explained that as stated in previous applications the applicant has tried to claim ownership and failed and recently the applicant has employed local contractors to undertake unauthorised works on the drove and also to the drainage ditch to the left which borders the properties on Millfield Close.

Mr Joyce explained that the Highways Enforcement Team insisted that the applicant cease the removal of any more trees and hedgerows from the ditch which then resulted in a fine of £4,400. He added that the applicant's recent works have resulted in the drainage ditch bordering Millfield Close to partially collapse and block the drainage outfall pipe which was installed by the Highway Authority in order to alleviate the flooding issues.

Mr Joyce made the point that it was suggested that the reason for the Certificate C was to enable the applicant to fill in the ditch and try to widen the width of the drove to enable the ability of two cars to pass. He stated that the traffic that the development will incur has increased to 20 or more cars, an increase since the previous application.

Mr Joyce made the point that two of the objections are from properties at the end of Millfield Close that face directly towards the new proposed development and the illegal removal of the trees and hedgerows has already reduced the privacy to those properties and the residents fear that they will lose even more if the development is approved. He explained that the drove is 2 to 3 feet higher than the bordering properties where on the left-hand side Millfield Close is located and Fairview

Gardens to the right-hand side, with residents concerned that if any attempt is made to fill in the ditches or widen the drove could mean the potential to cause further flooding issues.

Mr Joyce made the point that the drove is a byway with a one car width of approximately 3.2 metres at its widest point and it is used by many pedestrians, families, joggers, dog walkers and horse riders and at the end of the byway there is the pocket park owned by the Council which is well used and has increased the footfall along the drove. He stated that the width of the drove is a restricted width and has no footpaths or street lighting and, therefore, the increase in traffic could make the drove unsafe for pedestrians to use.

Mr Joyce explained that the residents in the vicinity of the application site have found it necessary to keep raising objections to the applications which have been ongoing since 2016 and objections have been submitted from the residents and other authorities with the main objectors since 2016 being the local residents, highways and byways, County Council Access and Bridleways, the British Horse Society, Chatteris Town Council and Anglian Water. He explained that Anglian Water have concerns because the mains sewer runs the length of the drove and made the point that whilst he is a member of Chatteris Town Council he is addressing the committee as a local resident.

Members asked Mr Joyce the following questions:

- Councillor Marks referred to the point made concerning flooding, and he asked whether there have been any issues of flooding previously? Mr Joyce confirmed that there have been instances of flooding. Councillor Marks stated that when he visited the site, there is a dyke which is full and overgrown and it also looks as though the boundaries appear to be fairly flexible as there are posts which have been introduced along with fences which have been doglegged and he questioned whether flooding issues would be alleviated if the dyke were to be piped? Mr Joyce explained that the property that Councillor Marks referred to which has introduced posts is actually his property which he has owned for 50 years, and he has maintained the flow of the ditch over that period along with other properties. He stated that it is still a free-flowing drain and does take water and is not blocked but it is piped further down. Mr Joyce explained that over 10 years ago he encountered some flooding problems when one of the storm drains overflowed causing gardens to become flooded and as a result the Highway Authority diverted the pipe from the right-hand ditch to the left hand as it is the main flow drain. He added that the drove in comparison to the gardens is higher and even if the ditches were filled in there cannot be a level due to the slope and that is the reason he has never piped his ditch. Mr Joyce added that the main storm drain is now on the left-hand side from the top of Blackmill Road to the bottom which goes out into the storm drains.
- Councillor Connor asked for confirmation as to whether the drains are riparian drains and whether Mr Joyce can confirm who owns them? Mr Joyce stated that the reason he has highlighted the issue concerning the Certificate C is due to the fact that over the years, the residents have always cleared the ditches along with Highways. He explained that when his garden flooded he had a conversation with Highways and they had diverted the pipe from the right-hand ditch to the left-hand ditch and the main flow to Millfield Close. Mr Joyce added that Highways had advised him that it was his responsibility to maintain the flow in his ditch which all the houses who border the property have done.
- Councillor Connor stated that the ditch appears to be overgrown and, therefore, he questioned whether it would be better for the ditch to be cleaned out and piped in order to alleviate any problems going forwards? Mr Joyce expressed the opinion it has been like that for many years before those developments were there and the byway has always been there, and it has always flowed without any real problem. He added that the only issue that has occurred is when the main storm drain blocked which resulted in Highways diverting the pipe into the left-hand drain and the fact that it has not been cleaned is not down to the residents or the applicant, but Highways have said it is a riparian drain and residents have to maintain part of the ditch. Councillor Connor stated that it appears that it is a riparian

ditch and, therefore, if the residents all agreed and piped it then it would flow a lot better without any obstruction. Mr Joyce stated that he does not see any benefit in clearing it out if it does not flood and has not done so in the last 20 years, adding that if it is filled in which is also what the applicant wants to see happen then the applicant will claim part ownership of the ditch and if it is piped then the next step will be to see the ditch filled in. He added that a future application which will be submitted will be to improve the byway in order to facilitate the ability to let two cars pass, with applications having been submitted since 2016 on the same basis and, in his view, it is not the fact that the residents have any problems or issues with the applicant. Mr Joyce explained that the hedges have been sprayed with chemicals and there have been trees removed along with a contractor who recently attended with the intention of levelling off the top of the brink resulting in the subsidence of the ditch.

- Councillor Benney expressed the view that there has been a great deal of speculation in the points made by Mr Joyce and Planning Committee have to deal with factual information. He added that he is familiar with the road and the posts which Mr Joyce has erected have been placed on land which does not belong to him as nobody can own both sides of a drain. Councillor Benney stated that some of what has been said appears to be with regards to the drainage issues and possibly an element of personality is also an issue. He feels that the fact that posts have been erected to narrow the width of the road along with a fence which was not there before make him think there is something slightly untoward here. Councillor Benney asked Mr Joyce to confirm whether the posts are his? Mr Joyce confirmed that they are as well as part of the ditch which is in his ownership. Councillor Benney asked whether the posts are placed on land which Mr Joyce owns? Mr Joyce confirmed that is the case and explained that the reasons he installed the posts was due to the fact that he maintains the ditch and has done so for the last forty years. He added that when he cuts the grass he has also had to clear up dog fouling and the posts he has installed with chain link goes some way to alleviate that issue and to also stop cars driving onto the grass partly because the boundary slopes and he is trying to ensure vehicles do not have an accident and fall into the ditch. Mr Joyce added that there is no animosity between him and the applicant and the only issue that he has is the illegal works being undertaken in order to get the application passed, with every time an application is submitted it appears to be altered and amended in some way. Mr Joyce explained that the posts have only been erected recently and further around that side of the drove over the last 30 to 40 years people have filled in part of the ditch to the right and planted hedgerows, trees and fences and he explained that he is the last one to undertake any works down the drove. He added that the ditch has been open where his property is located for the last 50 to 60 years and since the houses were built, with him and his wife having lived there for 50 years and the ditch has always been maintained along with the drove.

Members received a presentation, in accordance with the public participation procedure, from Mr Matthew Hall, the agent. Mr Hall stated that he is pleased to note in the officer's report that the principle of residential development at the site is accepted and there is no reason for refusal with the site all being located in Flood Zone 1. He explained that at the present time a Council's refuse freighter uses the access to collect the bins down the access road and some properties have been there for about 50 years, with large agricultural vehicles also using the access road and have done so for a considerable number of years.

Mr Hall referred to the map on the presentation screen and highlighted that since the first application in 2021, there has been two delegated approvals and pointed out the yellow and purple areas on the plan where approvals have been made for bungalows, and they were approved with no objections from Highways under delegated approval, with to the east there is a development for 50 dwellings which was approved in 2019. He explained that when he submitted the application, he also submitted Land Registry documentation with some of it being from the 1970s, including one for Fairview Gardens, and the Land Registry maps consistently shows the width between rear boundaries and properties of Fairview Gardens and Millfield Close of between 7 and 8 metres, with there being a continuous curve and no kickouts.

Mr Hall stated that when he has visited the site and measured between some of the fences, there is consistency with the Ordnance Survey plan which was also submitted of 7 to 8 metres. He made the point that he has maps going back to 1886 and a further map from 1950 that shows the access as Blackmill Drove at a consistent width.

Mr Hall stated that the previous speaker has explained that when you go down there on the right-hand side towards the bend there is a kick in the fence which is not consistent and it does not match the Land Registry red lines of residents private ownership. He referred to one of the photos that the officer displayed that shows where the drove is narrow, which does not match the Land Registry, there is quite a lot of difference where those fences are compared to where the red line is on the Land Registry documents, with some of them going back to the 1970s.

Mr Hall referred to 5.6 of the officer's report and made the point that Highways states that "there is a modest increase in peak hour vehicle trips arising from this development which would not result in a detrimental impact on safety grounds as such an objection could not be sustained solely on the grounds of highway safety". He stated on 12 March Highways came back and raised no objection to this application based on five dwellings and two passing bays but when looking further at Public Access and in the officer's report on 4 November they have now come back objecting to the application even though they have said there is no detrimental impact on safety grounds, with the application still being for up to five dwellings and two passing places proposed, one on each side and the previous applications were approved under delegated powers with no Highway concerns.

Mr Hall stated that this site and also the land to the south and west is all in the emerging Local Plan for residential development, with the two plots already approved off this access not having concerns raised with regards to sand and gravel extraction and the 50 house development to the east also did not have any concerns raised in relation to this. He referred to Policy LP15 stated as a reason for refusal to create a more sustainable transport network in Fenland and, in his view, this application provides betterment to the existing situation by creating passing places which would be used by vehicles and pedestrians who use the actual drove now.

Mr Hall made the point that the site is all in Flood Zone 1, there have been previous approvals given and since the previous refusal two delegated approvals so there is a material change since that previous refusal, the site abuts a 50 house development which is being built out and there are no objections in the officer report with regard to the principle of residential development.

Members asked questions of Mr Hall as follows:

- Councillor Marks referred to the highway/byway and asked if he had a calculation as to how wide a byway should be? Mr Hall responded that when he has looked at byways down Mill Hill Lane in March, Westfield Road in Manea and this one they all seem to vary and when he spoke to the byways officer about this he was informed there is no defined width.
- Councillor Sennitt Clough stated that she has looked at the previous application from 2021, with this application going down in the number of properties from 6 to 5 and asked if there is a reason for this? Mr Hall responded that it was felt that if the number of dwellings was reduced it would reduce the number of highway trips which would help when it was consulted on by Highways. Councillor Sennitt Clough asked if he felt that there is an issue with the byway based on the decision to reduce the number of properties? Mr Hall responded no, they looked at the previous application in 2021 which showed no improvements to the byway so it was felt that there needed to be a material change which was to undertake some improvements to the byway, with surveys having been undertaken and research on Land Registry. He made the point that where these improvements have been shown incorporated the byway and passing place at 5½

metres which includes the existing byway but when you go down there and measure and look on Land Registry in places it is 7-8 metres so they are not going the whole width of this area.

- Councillor Sennitt Clough referred to mention of agriculture vehicles using the access road, with some combine harvesters being wide, and asked how this can be overcome and mitigated? Mr Hall responded that the farmer who farm some of the land use this access now so by making these improvements, in his opinion, it is a betterment and if they meet a vehicle there will be passing places which is far better than what it is now.
- Councillor Benney referred to the previous application, before the posts and the fence were put up, where he went down and measured the roadway before it came to committee in 2001 and at its narrowest point that roadway was 7 metres wide and since then these posts and fence have encroached making it narrower. He referred to mention of the Land Registry not matching the drove and asked if the Land Registry shows for Fairview Gardens where the boundary was, which side of the dyke and is it a shared dyke? Mr Hall responded that on the Land Registry documents going back to 1971, 1972 and more recent ones the ditches are not shown but the boundary line is consistently a lot wider on the right hand side as you go down, the fences on 2-3 properties kicks in and that does not match properties Land Registry red lines so he would question whether the fences on those 2-3 properties are in the right place.

Members asked questions of officers as follows:

- Councillor Marks asked for them to define a byway and what its width should be? Gavin Taylor responded that looking at the Definitive Maps Team comments at 5.4.3, who are the experts in defining byway extents and locations, these state “there is no legally defined and recorded width for this byway, and we are not able to advise what it would be. As the dimensions are not known, we cannot guarantee the applicant will be able to improve and widen the byway to secure a standard that may be required by the Local Planning Authority”. He added that this is far as they can go as officers because they are advised by the Definitive Maps Team who are deemed to be the experts. Councillor Marks asked for confirmation that there is no laid down measurement so it could be a metre or 10 metres so members are working on an unknown. Gavin Taylor responded that this was correct.
- Councillor Connor asked for the photos to be shown where the fences were positioned.
- Councillor Marks asked if it is known what minerals are needing safeguarding under the ground at this location? Gavin Taylor advised that it would be gravel and general sort of minerals for gravel, which are used for construction. Councillor Marks stated that it also says waste local plan and asked if it is thought that this would then be used as a waste site thereafter. Gavin Taylor responded that Cambridgeshire and Peterborough have a joint local plan which forms part of Fenland’s Development Plan, with Cambridgeshire and Peterborough being the Waste and Minerals Authority so they deal with minerals and waste separately. He added with other applications coming forward there is consideration of their waste guidance, which sits separate to the minerals safeguarding. Councillor Marks requested confirmation that it is sand and gravel that is being dealt with? Gavin Taylor confirmed as far as he was aware.
- Councillor Mrs French asked officers to confirm what Mr Joyce stated about Anglian Water objecting as her understanding is that Anglian Water do not normally and she cannot see anything in the report. Gavin Taylor responded that there is not reference to Anglian Water within the report, they have not been consulted with as this scheme does not fall under a major application which they would be consulted on and he is not aware of any comments from Anglian Water on this application.
- Councillor Gerstner asked officers to confirm the right of way to accessing a byway? The Legal Officer responded that a byway is a public highway and members of the public are allowed to pass and repass on foot, horseback and motorised vehicles.
- Councillor Marks asked who has the obligation to upkeep that as a highway, is it Cambridgeshire County Council? The Legal Officer responded that the Highway Authority has general obligations to maintain highways but it is not adopted so it would not be as

maintained as an adopted highway would be. He added that the owner may have an obligation but it is not known who the owner is, it might be the County Council but it might be somebody else. The Legal Officer continued if the byway is in unknown ownership the applicant should have served Certificate D to confirm the land is in unknown ownership and it should have been advertised as such and he understands that this has not been done so there may be a technical issue why this application may not be determined.

Councillor Connor allowed Mr Hall back to clarify this issue. Mr Hall advised that during the application they serve various notices but they then put an advert in the newspaper and he has an e-mail from Mr Rowen agreeing to the advert and they also served a notice on the byway people as well. Councillor Connor expressed the opinion that it seems they have done as much as they can.

- Councillor Mrs French stated that quite often the County Council do not own public rights of way and somebody else owns it, with it being very seldom that the County Council will actually repair it. She expressed confusion about who owns the land? The Legal Officer responded that it may be that Mr Joyce believes he is a riparian owner because there is a legal presumption if land is a roadway or a river and is in unknown ownership then it is deemed to be the owners of either side owning halfway across. Councillor Mrs French stated that Mr Joyce might own to the middle of the dyke but he does not own the whole dyke so there is a need to establish who actually owns the road because there are dykes on both sides and a road so, in her view, Mr Joyce does not own part of the road he only owns half of the dyke.
- Councillor Benney stated that this is his understanding and that was what he was trying to establish with Mr Joyce as he has put these stakes on the wrong side of his boundary, it is a riparian drain to the centre of the drain and the stakes have been put on the roadway side which is narrowing the width. He added that from his understanding you do not own both sides of a drain on a riparian drain so those posts have been put on somebody else's property and they only appeared a few months ago, which has narrowed the roadway to make it look bad. Councillor Connor stated that this is something that does need looking into.
- Matthew Leigh stated that this application has been at committee before and members found it unacceptable on highway grounds, which is why objections were not raised on the principle because at the time the committee looked at the application they found the principle accepted but had concerns about the highway. He added that whether fences have moved or not moved since that application is irrelevant and is not part of the reasons for refusal or the decision that was made previously. Matthew Leigh made the point that while there may well be potential to make the access way acceptable compared to the previous application, officers have concerns about the ability to deliver those passing bays because of ownership issues and as decision makers it needs to be decided is it safe, is it possible to impose a condition that requires these passing bays to be implemented on this roadway where there are significant concerns about ownership.
- Councillor Marks requested clarification that with the two passing places there has been a material change to the highway, with it being refused previously on highway grounds, which alleviates the concern of vehicles passing and it is purely just an ownership issue. Gavin Taylor responded that the Local Highway Authority have confirmed that the scheme with the passing bays is acceptable but it is subject to delivery of those passing bays so its objection is on the basis that it does not know how those passing bays are going to be secured because it is not known what the legal status is of the extent of highway or land required to deliver the passing bays. He added that this is what is different to the previous proposal as there was nothing tabled at that time other than an agreement or acceptance from the applicant at that time that they would explore and deliver necessary mitigation for footways, etc and that application was refused on failure to evidence that they were deliverable and it would be unreasonable to secure through a condition. Gavin Taylor stated that officers consider that there is a similar situation with this application as whilst there may be a plan with drawings that show what could be delivered, it is the deliverability that is in question.

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

- Councillor Imafidon referred to the fences, posts and dykes filled in without authorisation and questioned why this was not picked up when the application was made and why has no enforcement been made on those unauthorised encroachments. He asked if it could not be made a condition if this application is approved that the passing places be effectively delivered.
- Councillor Connor clarified that it was being said that the passing places could be conditioned and if they cannot be delivered then the development will not get built.
- Councillor Marks stated that he has visited the site, he thinks building land will run out long before sand and gravel is started to be dug up to take any minerals away and there are 50 houses next door to the site which should have been picked up if minerals were an issue. He expressed the view that the applicant has come back with this application, it is not clear regarding the roadway ownership but there is a scheme, whether it works or not that has got to be negotiation with other people so if it can be conditioned he is happy to support the proposal.
- Councillor Connor agreed with the comments of Councillor Marks, it is an improved scheme and feels there is some way forward for the proposal.
- Councillor Sennitt Clough made the point this is an outline application, it has to be looked at as presented and her concern is that if committee says it will condition this and condition that where does this end and are conditions being applied that cannot be delivered. She expressed the view that, in terms of the deliverability of this application, at the moment there has not been enough undertaken to mitigate the safety in terms of the access.
- Councillor Marks stated that the road is quite wide already in this location and by creating two passing places he feels it would better that roadway and further down the road there are two building plots which have now been given permission so it did not seem to be a problem to give this approval so committee is actually looking at five more houses on a road that is not busy.
- Councillor Gerstner made the point that members have been told in the past about land ownership not being a material planning consideration and committee seems to have spent a long time discussing this byway, with officers making it clear both on the 2021 application and this application about the fact that there is the public byway open to all traffic and until such time that the applicant can prove that the land is deliverable he does not think committee should support it.
- Councillor Benney stated that when this proposal came before committee previously he proposed that it be turned down because access was not committed at that time but on this application, in his view, it is a good scheme that can be delivered and there have been two other applications that are served from the same drove further down, one in 2022 and the other in 2023, and when you look at those reports there was no mention of additional traffic and they were approved with officer delegation. He stated that the thing that changes it for him is the fact that these two building plots were approved so if it was good enough for these plots why is it not good enough for this proposal. Councillor Benney expressed the opinion that the passing places will improve the byway and public safety and there will be public betterment by approving this application. He feels if the land ownership cannot be resolved then these dwellings will not be built.
- Gavin Taylor stated that there are two issues with this byway, one is not just land ownership it also the legal extent of the byway which has not been explored, confirmed or an order made so there are two issues in establishing what is or is not deliverable and how the byway should and can accommodate the additional traffic. He made the point that in relation to the two applications for single dwellings that have been approved, both reports do refer to both the refused application and the fact that this is a byway and there will be additional traffic impacts, however, it was considered in both applications because they were incrementally single dwellings and infill at that time that they would not cumulatively create a significant harm in terms of highway conflict. Gavin Taylor added that there is now an application in front of committee where the Local Highway Authority are clearly objecting on

the basis of the increase which would ultimately total seven dwellings here, which would create a material impact on the highway which would be unsafe for users. He continued that in terms of betterment, whilst he takes members point that passing places would only serve to improve that byway and create access for all, if this is going to be given significant weight there is the need to be certain that it can be delivered and securing it through a condition means that the tests of a planning condition can be met, that they are reasonable, achievable and deliverable, if they are not and a condition is imposed that does not meet those tests the applicant could seek to remove that condition and the Council may be in a weak position to object to this. Gavin Taylor referred to minerals and waste, the Local Plan for Minerals and Waste was updated post refusal of the application for six dwellings and there is a condition that forms part of the Council's Development Plan and there is a legal duty to assess applications and determine them in accordance with the Development Plan and that policy under minerals and waste says that applications on mineral safeguarding areas should not be supported where it is not demonstrated that they meet a need. He added that on the scheme for 50 dwellings it was considered that would meet a need in terms of a wider need of housing delivery but this proposal is only serving five market dwellings which is unlikely to meet current needs notwithstanding that there is a healthy land supply. Gavin Taylor referred to encroachment onto public highway stating that enforcement acts occur in the public interest and if there are no concerns raised about unauthorised works it is not reasonable for the Council to take action notwithstanding that the Highway Authority would also be entitled to take action where they felt it affected their highway.

- Councillor Benney stated that he has the Cambridgeshire County Council report in front of him and it says "whilst there is no submitted forecast of vehicle movements from the proposed dwelling and it is clearly accepted that the byway is currently utilised by a number of pedestrians throughout the day, the modest increase in peak hours vehicle trips arising from the development would not result in detrimental impact on safety grounds such that an objection from the Highway Authority could not be substantiated solely on the grounds of highway safety". He feels that this says that there is no objection on highway grounds for safety, it is about the delivery of the scheme. Gavin Taylor responded that if the comments are read further it continues "it should be clearly understood however that the acceptance of the proposed development on highway grounds is contingent upon the provision of the widening works."
- Councillor Marks questioned the comments made about enforcement, was it Cambridgeshire County Council or Fenland being referred to? Gavin Taylor responded any enforcement party so if it was felt that it was unauthorised works then the Local Planning Authority could take action if they felt it was expedient to do so but equally if the Local Highway Authority felt it expedient to take action then they could do so also. Councillor Marks clarified that this is moving of the boundary fence over the dyke. Gavin Taylor responded that he believes that this is what the suggestion was.

It was proposed by Councillor Gerstner, seconded by Councillor Sennitt Clough to refuse the application as per officer's recommendation but this was not supported on a vote by members.

Proposed by Councillor Benney, seconded by Councillor Imafidon and agreed that the application be APPROVED against officer's recommendation, with authority delegated to officers to apply condition in consultation with the Chairman, Proposer and Secunder.

Members do not support officer's recommendation of refusal of planning permission as they feel that the proposal is not in conflict with Policy LP15 of the Fenland Local Plan and Paragraphs 108 and 110 of the NPPF as they feel that anybody who lives in these dwellings is going to have a car as a car is needed to live in Chatteris as public transport is abysmal, there is no highway harm but betterment and deliverability can be mitigated against, there have been two other dwellings that have been approved that use this drove over a longer distance than this proposal would and there has been a material change since the previously refused application in terms of the number of

houses and the access arrangements.

(Councillor Benney declared that the agent has undertaken work for Chatteris Town Council and himself personally and that the applicant is also known to him, however, he has not met or socialised with him for many years, but he is not predetermined and will consider the application with an open mind. He further declared, in accordance with Paragraph 14 of the Code of Conduct on Planning Matters, that he is a member of Chatteris Town Council but takes no part in planning)

(Councillor Marks declared, in accordance with Paragraph 14 of the Code of Conduct on Planning Matters, that he is a ward councillor for Chatteris and does attend Chatteris Town Council meetings, but takes no part in planning)

P59/24

F/YR24/0373/F

**LAND NORTH OF THE WALNUTS, FLAGGRASS HILL ROAD, MARCH
CONVERSION OF EXISTING AGRICULTURAL BUILDING TO 2 X DWELLINGS (2-
STOREY 4-BED) INVOLVING DEMOLITION OF EXISTING SHEDS.**

Tom Donnelly presented the report to members.

Members received a presentation, in accordance with the public participation procedure, from Shanna Jackson, on behalf of the agent Ian Gowler as a Planning Consultant. Mrs Jackson explained that the application is for the conversion of an existing agricultural building to form two dwellings and the application has been recommended for refusal due to the location of the site being within the countryside and because the building is not considered to be of an architectural or historic merit. She expressed the view that the building is not isolated or in a countryside location as there are other dwellings physically adjoining the site which leads up to the continuous built-up frontage of Creek Road, adding that when taking that point into consideration the development will be in acceptable in accordance with Policy LP3.

Mrs Jackson stated that the barn is capable of conversion under permitted development procedure Class Q, however, the proposal was submitted under Class Q in order that a higher quality development could be achieved and by submitting the proposal under a full application, it has meant that the upgrade of the external wall materials to brick and cladding has been possible in order to meet the Planning Officer's request. She added that more energy efficient features have been incorporated within the structure which include upgrades to the fabric of the building plus the addition of a formal garden area.

Mrs Jackson referred to case law from the Court of Appeal with regards to Mansell versus Tonbridge and Malling Borough Council stating that development under Class Q is a fall back position which means that it is a material planning consideration for planning applications and that permitted development rights under Class Q can be exercised. She stated that in order for a fallback position to be realised, the development must be a real prospect, and it was confirmed within the Mansell case that Class Q permitted development rights do comprise a real prospect on whether there is a prior approval in place or not.

Mrs Jackson expressed the view that the fact that the barn can be converted in Class Q should be given substantial weight in the decision-making process and the principle of converting to residential use can accordingly be considered as established. She made the point that the application has the support of March Town Council, and the officer's report confirms that it is technically acceptable in terms of highways impacts, residential amenity biodiversity and flood risk.

Mrs Jackson stated that she hoped that the committee are able to see the planning merits of the case and that it complies with both Policy LP3 and the relevant case law.

Members asked Mrs Jackson the following questions:

- Councillor Mrs French stated that she has noted from the officer's report that on the 19 May last year the proposal was refused and asked what is different between that application and the one before the committee now and why did the previous application not go to an appeal? Mrs Jackson stated that it is her understanding that the two applications are quite similar and in terms of appeal it is her understanding that it was a procedural issue and there was not enough time to take it forward to appeal.
- Councillor Imafidon asked for clarification on how the proposal complies with Policy LP3? Mrs Jackson stated that policy LP3 is a directional policy, and it directs development into locations of built-up settlements. She explained that LP3 requires development to be within the settlements or within built up areas and, in her opinion, it does comply with LP3 because there is development on either side of it and it is within that cluster of existing development around Creek Fen. Councillor Imafidon asked officers to display the aerial photo for him to review.
- Councillor Mrs French asked for an explanation as to why the applicant has chosen to apply for the conversion of the building rather than demolishing and rebuilding a dwelling? Mrs Jackson explained that it is her understanding that because there is an existing structure in place, the impact on the surrounding area is less and, therefore, by converting what is already there, the views from the open countryside from the surrounding area will essentially be the same and it will be more sympathetic to convert rather than do a rebuild.

Members asked officers the following questions:

- Councillor Sennitt Clough stated that Mrs Jackson had made reference to the fallback plan, and she asked officers whether they concur with her description of it in relation to the proposal before the committee. Tom Donnelly stated that whilst Class Q is a viable fallback position and a material consideration it would be necessary to obtain Class Q approval prior to the submission of an application such as the proposal before the committee.
- Matthew Leigh added that officers would not have quite an exact same approach as the agent did in relation to the weight that should be given to a material consideration and case law is clear that it is up to the decision maker to do that as long as it is reasonable. He made the point that there needs to be a reasonable prospect of a permission being implemented, officers have not undertaken any academic exercise to consider whether or not the building is capable of approval and nobody has undertaken any exercise about whether or not the pre-approval can be implemented, and he would suggest that if there is reliance on a pre-approval then one should be submitted and use that as a fallback position which can then be given substantial weight rather than trying to use it as an academic potential exercise in the future. Matthew Leigh stated that planning is about facts, and it is not about unknowns, and weight should be given appropriately compared to if there was definitely a fallback position that could be delivered.

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

- Councillor Mrs French stated that she can see no difference with the current application compared to the one which was refused last year and, therefore, she does not know why this application should be approved.
- Councillor Gerstner stated that the committee need to be consistent in their decision making and he agrees with the views of Councillor Mrs French.
- Councillor Connor explained that he refused the application under his delegated powers as Chairman, and he sees no reason for the application to be approved as it appears to be extremely similar.

Proposed by Councillor Gerstner, seconded by Councillor Sennitt Clough and agreed that the application be REFUSED as per the officer's recommendation.

(Councillor Marks declared that he knows the applicant through business dealings and took no part in the discussion and voting thereon)

P60/24

F/YR24/0637/O

**LAND NORTH-EAST OF 190 WYPE ROAD, EASTREA
ERECT UP TO 3 X DWELLINGS INVOLVING THE FORMATION OF 3 X
ACCESSES (2 X RESIDENTIAL, 1 X AGRICULTURAL) (OUTLINE APPLICATION
WITH MATTERS COMMITTED IN RESPECT OF ACCESS)**

Tom Donnelly presented the report to members.

Members received a presentation, in accordance with the public participation procedure, from Mr Matthew Hall, the agent. Mr Hall stated that the application site is very similar to three sites across the road which have received planning approval in the last 4 years, including one application receiving approval in October. He added that the site abuts existing development in Eastrea and in accordance with Policy LP12 along this section of Wype Road, the form of development is linear which is what has been proposed with the application before the committee.

Mr Hall stated that scale of development proposed is bungalows which is in keeping with the adjacent property and also bungalows all approved in the last four years directly opposite the site. He explained that under Policy LP16, which was mentioned in the officer's report, that retaining natural features by the side of the bungalow which was shown in the officer's presentation are all being kept along with the majority of the hedge at the front if the site is to be maintained.

Mr Hall stated that an ecology report has been undertaken and if the application is approved, then there will be biodiversity net gain, with site all being located in Flood Zone 1 as are the bungalows on the opposite side of the road and the application also includes the proposal to increase and link the adoptable footpath all the way across the front of the site to link with the adjacent adoptable footpath and Cambridgeshire County Council have not raised any concerns concerning this. He referred to the presentation screen and indicated to members of the committee the location of the application site and pointed out the three applications directly opposite the application site highlighting the first one approved by the committee in 2019 against the officer's recommendation for two large bungalows which have been built out.

Mr Hall explained that the next application was for 2 bungalows which were approved in 2023 and one of which is currently being built out, with the blue area on the slide approved against the officer's recommendation for a further 2 bungalows in October. He referred to the photos on the presentation screen and pointed out the view that can be seen from the application site which are of the bungalows which have been approved previously.

Mr Hall stated that Whittlesey Town Council support the application and there have been no local objections to the proposal. He expressed the view that it is an ideal site for single storey dwellings and abuts existing development as well as being opposite recently approved built out development and is all located in Flood Zone 1 with no technical objections submitted either.

Members asked Mr Hall the following questions:

- Councillor Sennitt Clough referred to section 3 of the officer's report and asked for clarity with regards to the footpath as it is not clear where the path is extending to. She made the point that there is a right of way in the dip, and she asked whether the public footpath would extend to that? Mr Hall referred to the location plan in the officer's report where it shows that the red line has been extended all the way across the front of the neighbouring

bungalow where the actual footpath starts. He added that it is his understanding from the Highway Authority that it is where the adoptable footpath is now and, therefore, he is planning to extend a new adoptable footpath to link up with that shown in the report. Councillor Sennitt Clough asked whether the extension would go to the public right of way that goes towards Coates. Mr Hall explained that his path is going back towards the village of Eastrea to the northwest and not extending further down into the countryside.

- Councillor Sennitt Clough stated that in the report it mentions that the dwellings are likely to be bungalows, and she made the point that she is concerned that the type of dwelling is not confirmed. Mr Hall explained that he has spoken to the applicant and if the proposal is approved the applicant is happy to accept a condition that the dwellings are all single storey.
- Councillor Gerstner stated that a footpath is very important to the local residents down there for walking and also for dog walkers. He added that there is no footpath on the other side of the road, and he questioned whether the footpath would be delivered at the same time or at the end of the development? Mr Hall stated that it is his understanding that if the application were to be approved, then officers would word a condition to reflect that the footpath has to be delivered prior to the occupation of the dwellings.
- Councillor Gerstner made the point that the speed limit changes imminently near the application site, and it could cause an issue, or a problem and he asked Mr Hall whether he would consider taking steps to get the speed limit lowered to 30mph prior to development? Mr Hall explained that at a recent planning Committee in October, two dwellings were approved which are located further down from the current proposal before members and the Highway Authority raised no objection to that application and it is where the speed limit changes, and that applicant was not asked to consider taking steps to change the speed limit. He explained that Highways are happy that the visibility splays can be achieved, and he stated that with regards to looking to take steps to reduce the speed limit then he would say no.

Members asked officers the following questions:

- Councillor Sennitt Clough asked whether it would be possible to add a condition that only single storey dwellings were allowed? Matthew Leigh stated that the application is in outline form, and it is his understanding that there is nothing in the documentation that says that it will be two storey. He added that if members decided that the only reason that the proposal would be acceptable is if they were two storey dwellings then a condition can be imposed. Matthew Leigh added that there are quite strong draconian conditions that can be applied on outline applications if officers deem it necessary to influence the reserved matters.

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

- Councillor Gerstner referred to the approval of application F/YR22/1410 for bungalows almost opposite the current application site and he added that there are two bungalows further down the road and he questioned at what point the committee are going to decide that the developments are outside of the Eastrea village limit as there needs to be a stop point. He stated that the issue is consistency and as properties have been approved opposite the application site he cannot see why the current application is different.
- Councillor Mrs French stated that several years ago when the committee approved two bungalows against the officer's recommendation at that time, the committee said enough is enough. She expressed the view that when the application was approved in October, she would not have supported that proposal, and she added that consideration does need to be given as to where the development in this area stops once and for all.
- Councillor Benney stated that he agrees with the points made by Councillor Mrs French, and he recalled that when the F/YR22/1410 application was approved he stated that there should be no further development in the vicinity. He referred to the site plan and stated that the two bungalows were approved against the officer's recommendation are very nice homes and are very well designed, making the entrance into the village good because of the quality of the build. Councillor Benney added that the proposal before the committee is

on the opposite side of the road and will square the development up and he does not have an issue with the application but expressed the view that if the committee feels that there should be no further development in that particular location then maybe they should all agree that, however, he is happy with the current application but then in his view that should be the end.

- Councillor Sennitt Clough expressed the view that there is the need for bungalows locally and she agrees that the bungalows which are already there do provide a nice entrance point to the village. She added that the proposed dwellings on the other side of the road are very tastefully designed, and the application would create a balance now to those that were approved at committee last month on the opposite side of the road. Councillor Sennitt Clough stated that she concurs with Councillor Benney with the points he made and this would be the last site before it drops into Flood Zones 2 and 3. She expressed the view that the application is located in Flood Zone 1 and, in her opinion, is perfectly acceptable and will create a balance.
- Councillor Connor stated that he agrees with the comments made by other members, and he agrees that there needs to be consistency. He added that the bungalows opposite are an absolute credit, and he will be looking to support the application, but he does not think he will be able to support anything else down Wype Road in the future.
- The Legal Officer advised members that they must keep an open mind when considering any future applications.
- Councillor Connor stated that a condition cannot be added to an application which dictates that if an application is submitted then it will not be considered.

Proposed by Councillor Gerstner, seconded by Councillor Sennitt Clough and decided that the application be GRANTED against the officer's recommendation with authority delegated to officers to apply suitable conditions, including the construction of the path prior to first occupation and also that the dwellings be single storey.

Members do not support the officer's recommendation of refusal as they feel that they need to be consistent with the two previous applications which have already been passed on the opposite side of the road.

(Councillor Benney declared that the agent has undertaken work for Chatteris Town Council and himself personally, but he is not pre-determined and will consider the application with an open mind)

P61/24

F/YR24/0424/F

**LAND EAST OF MILL HILL ROUNDABOUT, WIMBLINGTON ROAD, MARCH
CHANGE OF USE OF LAND TO DOG EXERCISE AREA, INSTALLATION OF
SECURE FENCING UP TO 1.8M HIGH (MAX), ERECT SHELTERS AND
FORMATION OF NEW ACCESS AND CAR PARKING.**

Gavin Taylor presented the report to members and drew members attention to the update report that had been circulated.

Members received a presentation, in accordance with the public participation procedure, from Sean Saxby, the applicant. Mr Saxby expressed the view that the proposed dog park aligns with community needs and meets multiple planning policy objectives, with the demand for dog parks in this region being substantial given the fact that 33% of households own dogs. He added that existing parks are frequently oversubscribed reflecting a clear need for additional well managed facilities and the proposal aims to provide a safe, clean and professionally operated space for pet owners and will offer a safe environment for dogs and people who like to enjoy the outdoors, with this proposal meeting a crucial need especially given the 22% increase in dog related incidents this year highlighting the need for controlled spaces and socialisation.

Mr Saxby stated that the site is accessible and can be reached by footpath for those residents living in both March and Wimblington who wish to walk to the park and there is a bus stop adjacent to the site providing easy access for those wishing to use public transport if they do not have access to a private car. He made the point that this also supports sustainability goals by reducing reliance on car travel and promoting more healthier active lifestyles for residents who walk or take the bus to the facility.

Mr Saxby referred to biodiversity and enhancement and explained that whilst the current site is just an agricultural field, the proposed dog park incorporates extensive hedging and landscaping which will significantly enhance the biodiversity and create a thriving habitat for wildlife, which aligns with Policy LP16e as it directly supports and enriches the biodiversity. He added that the landscaping will also create natural buffers to include screening, fencing and other park features to maintain the rural character of the area, with the visual impact on the park being minimal and thoughtfully mitigated.

Mr Saxby explained that the design features, fencing and structures will be effectively screened by newly planted hedgerows which will mirror traditional field boundaries common throughout the Fenland countryside, with there being natural topography along with existing mature trees on the southern boundary which limit the visibility from public viewpoints particularly from the south and west. He explained that as a result this will ensure that the project aligns with Policy LP16(c) and (d) which will preserve the character of the landscape and avoiding any adverse impact on the rural scene.

Mr Saxby explained that with regards to the precedence of existing development there are several other leisure and commercial developments nearby including the driving range and golf course which is opposite the proposed site and a petrol station to the west and the facilities already include built features and flood lighting into the area which are visually more prominent than the dog parks proposed facilities. He stated that recent permission for an office building to the north of the road has set a precedent for further development in the area which demonstrates that controlled non residential use is compatible with the local setting.

Mr Saxby expressed the view that future demands and the anticipated southeast March development means that there will be an increase in the local population including houses with dogs which are essential to proactively address the recreational needs of the residents including dedicated spaces for pet exercise and socialisation and should even a third of these new households have a dog then the demand for secure accessible outdoor space will only increase which highlights the need for the dog park in particular. He expressed the opinion that although LP16 primarily addresses residential and commercial development, the dog park aligns well with the policy's broader objectives and will align with protecting and enhancing the biodiversity on the site with significant landscaping and hedging and will incorporate and respect natural features and will create a landscape in harmony with traditional countryside patterns.

Mr Saxby expressed the opinion that it will enhance the local character, provide additional leisure opportunity, will be in keeping with nearby amenities, will not disrupt the existing landscape and will incorporate facilities for waste collection and disposal ensuring that a well maintained and user-friendly environment. He explained that it will be a safe environment by using secure fencing and be of a design to provide a controlled space that deters crime and promotes community safety.

Mr Saxby stated that there has been significant community support for the project and minimal objection emphasising community endorsement of the facility encouraging exercise and social interaction including mental wellbeing for pet owners and their dogs. He added that this aligns with Fenland's Local Plan and broader goal for community orientated development.

Members asked Mr Saxby the following questions:

- Councillor Mrs French asked whether he has any concerns over the loss of prime farmland

and could he have not found another location which was not as prominent as the A141? She also asked him to confirm whether he is proposing to include toilet facilities on the site? Mr Saxby stated that at the current time there are no plans to include toilet facilities and he added that he is aware that other dog parks in the area do not have toilet facilities. He added that with regard to the loss of farmland, in his opinion, there is still plenty of farmland that Fenland has to offer and the proposal is in alignment with existing development including that of the March South East development for 2000 homes which is going on land which is currently farmland.

- Councillor Mrs French made the point that she finds it disappointing that Highways have not objected to the proposal as it is a 60mph stretch of road. She added that the proposal includes a no right-hand turn, however, in her view, she cannot see how that will work and she does have concerns regarding this.
- Councillor Mrs French stated that Mr Saxby mentioned about people visiting the site by taking their dog on a bus and she questioned whether people take dogs on buses. Mr Saxby stated that many of the dog parks which are operating already are over subscribed and, therefore, if you need to take your dog out to a dog park and you do not drive then there is the option of getting a bus with a bus stop being located outside the site.
- Councillor Marks stated that there appears to be 28 parking spaces at the site, with the rent of the dog field being by the hour, which appears to be 168 vehicle movements in a day which, in his opinion, concerns him over the access point due to the close proximity of the roundabout to the site. He asked Mr Saxby what his view is and does he not think that is too many movements? Mr Saxby stated that the way that the facility has been designed and detailed in the design access statement is that there will be hourly blocks but broken down into half hourly sections so that the demand on the half hour point is less than if it was just on the hour. Councillor Marks stated that may be the case but there is still the same volume of cars which is 168 vehicle movements off the road per day and the garage across the road also needs to be taken into consideration. He added that he has concerns that the traffic is going to back up to the roundabout very quickly and will cause a bottleneck with the number of vehicles being proposed. Mr Saxby explained that many of the parking spaces on the site are additional waiting spaces and are not for use throughout the whole hour. He explained that when somebody arrives at the site, they will be held in a waiting space and not on the road. Councillor Marks stated that fact is irrelevant as they will still be turning into and leaving the field in one way or another and it is still going to be the same amount of vehicle movements. Mr Saxby stated that he agrees with the fact that cars are going to have to come in and out and from a highways perspective he has spoken to them and has had transport studies measuring the speed of vehicles along the road. He added that if a vehicle is approaching a roundabout then it should not be doing 60mph and he explained that he has gone through all the necessary hurdles with the Highways Authority that were necessary to alleviate concerns.
- Councillor Marks asked that if the dog park idea does not work going forwards, would the land be returned to farmland or used for something else especially if the application is approved and would have an access point? Mr Saxby stated that nothing further has been considered as there is a great demand for a dog park and it is something that he feels that the community needs.
- Councillor Connor stated that there are 550 homes in the pipeline which includes the 400 dwellings which were passed a couple of months ago and 130 which were approved very recently. He added that a number of those dwellings will access from Lambs Hill Drove.
- Councillor Sennitt Clough asked whether there is any comparative data on the number of vehicles for the other dog parks in Thorney and Wisbech so that members can have a proper idea of the numbers of people coming in and out. Mr Saxby responded that their modelling of how booked these facilities are in advance is typically around 30-40% on the available hours. Councillor Sennitt Clough asked 30-40% of what number? Mr Saxby responded that some have different booking hours but they are typically from 8am until 6pm or longer. Councillor Sennitt Clough questioned 30-40% of what overall percentage as she is sure that he has comparative data to share based on other business models around the

area of dog parks and how many visitors per day those other places achieving. Mr Saxby responded that weekends are fully booked so there will be 10-11 trips or visits, with there being four fields here but he does not expect them to be at 100% even at the weekend, during the week numbers are much less typically there are around 6 hours or trips. Councillor Sennitt Clough sought clarification that at the weekends there are 11 trips per day and 6 during the week? Mr Saxby confirmed this was correct on average.

- Councillor Marks referred to 28 car parking spaces being provided for 11 cars per day on a weekend and asked if this was correct? Mr Saxby responded that most dog parks are for one field and they have the area on this proposal split into four as they feel the demand is there for four so there would be four times the amount of cars, 44 on a day. He added that they have additional car parking spaces in case people bring two cars, there are going to be more cars than at a single dog park with 11 cars per day. Councillor Marks questioned that working on 8 hours a day and the field is let by the hour. Mr Saxby stated that it was let by the hour but two fields would be let on the hour and the other two on the half hour to reduce the peak of traffic.
- Councillor Gerstner asked is it being said that each field is going to have one dog on it at one time? Mr Saxby responded that no, most of the time that is the case but there may be one person booking it who have two or more dogs.
- Councillor Gerstner asked if there are plans on how the dog fouling is being disposed of? Mr Saxby responded that there will be lots of dog bins on the site and they will have a contractor come in to empty them at a frequency rate still to be decided.

Members asked questions of officers as follows:

- Councillor Marks stated that he believes the application that committee approved for 400 homes that there was a change to this roundabout for an extra lane to come off turning left towards Chatteris and asked if this was the case? Gavin Taylor responded that this is not the case, he has looked at the plans for the Mill Hill Roundabout improvements and the improvement works incorporate a widening of the approach arm heading from Chatteris to Mill Hill Roundabout to give that capacity so there is not lane starvation and people queuing as they approach March. He added that the northern side of the A141 Mill Hill Roundabout the improvement works did not include any widening or adjustments notwithstanding that the application site sits outside any highway land so should there be a future need to widen any of the carriageways that members may be concerned about there appears to be highway land to accommodate that at this time, without prejudice to any final assessment of highways but this scheme does not appear to encroach onto highway land.
- Councillor Mrs French stated that she has a MATS meeting next week and will be asking questions but this does concern her as at the planning application a few weeks ago for Lambs Hill Drove the applicant was requested money for MATS for the improvements at Mill Hill so she feels the information might not have been fed back and she is concerned about Mill Hill as the traffic is horrendous, with the access to this proposal being so close to the roundabout. Gavin Taylor responded that the MATS scheme is for upgrade improvements at Peas Hill Roundabout, Hostmoor and St Peters Road, with the Mill Hill Roundabout mitigation being a direct delivery by the developer as there is not actually a project on hand with the Local Highway Authority to deliver it. Councillor Mrs French stated that she is not convinced, she has been working on MATS since 2017 and it was never expected the amount of homes being proposed, with the traffic in March being chaotic and she will find out at the MATS meeting next week what work is being undertaken but it is her understanding that Mill Hill will be looked at.

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

- Councillor Mrs French expressed the view that there is a need for a dog park as there are hundreds of dogs, and she understands that there is already one in March if it still operating and one in Manea but this one is premature.
- Councillor Marks agreed with Councillor Mrs French, he is concerned about the highway as whilst the Highway Authority say one thing using a desktop survey members live in the area,

use these roads and roundabouts and he feels the access is too close to the roundabout and he can see another bottleneck happening. He expressed the opinion that there is a need, the one in Manea does very well, but he thinks this is in the wrong place.

- Councillor Benney stated he does not disagree that an area is needed to walk dogs but this area in the emerging Local Plan is for industrial use and looking at the flood maps the part by the road is in Flood Zone 1 and that could be used for car showrooms, McDonalds and to turn this into a dog walking area is the waste of a prime site that could be so much better used. He expressed the view there are plenty of other places that a dog walking site could be located on land that has less potential.
- Councillor Connor agreed that it is needed but this is the wrong place so close to the Mill Hill Roundabout.
- Councillor Sennitt Clough stated that her reservations are based purely on the fact that she did not get the clarity that she wanted on the numbers coming in and out.
- Councillor Mrs French referred to the update from Environmental Health who recommend refusal and she feels they should be listened to.
- Councillor Imafidon stated that he knows Highways did not object but his concern is about the impact it would have where the access is located as he feels it could create a bottleneck at the roundabout and it is in an open area where something more productive can be undertaken with that land.

Proposed by Councillor Marks, seconded by Councillor Imafidon and agreed that the application be REFUSED as per the officer's recommendation.

(Councillor Mrs French declared, in accordance with Paragraph 14 of the Code of Conduct on Planning Matters, that she is a member of March Town Council, but takes no part in planning. She further declared, in accordance with Paragraph 2 of the Code of Conduct on Planning Matters, that she had been lobbied on this application)

P62/24

F/YR24/0626/O

LAND AND GARAGES AT HAWTHORNE DRIVE, WHITTLESEY

ERECT UP TO 2 X DWELLINGS (OUTLINE APPLICATION WITH MATTERS COMMITTED IN RESPECT OF ACCESS AND SCALE)

Gavin Taylor presented the report to members.

Members received a presentation, in accordance with the public participation procedure, from Rob Parsons, the applicant. Mr Parsons stated that he represents Parco Developments who are the applicants for the proposed development and they are a small construction company, with the development representing a considerable investment for his company. He added that he is aware of a number of objections to the application and most of them appear to be around the subject of access and overlooking, with the application being before the committee due to the number of objections.

Mr Parsons stated that, with regards to access, a number of the adjacent properties' rear gardens back onto the application site and the owners of those properties have given themselves access into the land, with the land having also been used previously as a short cut through and prior to the purchase of the land, checks were undertaken with his solicitor to check who had access rights and what the access rights were. He explained that the searches revealed that none of the properties that back onto or who are adjacent have any access rights other than for maintenance and repair and he added that it is not a public right of way or byway, with the fact that it has always been open, and people have chosen to walk through and give themselves access being one of the main reasons which has formed part of the submitted objections.

Mr Parsons explained that the land has now been fenced off which has removed the access for people, however, that access was not permitted in the first place. He expressed the view that he

did have concerns with regards to people fly tipping and as the landowner he is now responsible for anybody who accessed land, adding that should somebody access the land and have an accident then he would be responsible for any injuries and, therefore, by fencing off his land it will look to address the risk of fly tipping and also unauthorised access.

Mr Parsons added that when considering the objections concerning loss of light and overlooking, he took into consideration the advice and guidance from the Planning Officer and the scheme was reduced to include single storey dwellings even though there are two storey properties adjacent to the application site. He explained that the scheme was also reduced from four units down to two even though the four units met the planning criteria and made the point that he has considered the advice given by officers and have been considerate to the neighbouring properties and he hoped the committee would look to approve the application.

Members asked the following questions:

- Councillor Sennitt Clough stated that she understands that people have chosen to use the land for different reasons, and she is familiar with the area and is aware that children have used the site as a playground. She added that it is hard to re-educate children and she asked what steps he plans to take to re-educate the children with regards to the dangers on the site during the construction phase? Mr Parsons explained that as part of his role as a developer there are certain measures which have to be adhered to in order to protect members of the public and those steps include keeping the site secure during construction and ensuring the site cannot be accessed at any time which will include erecting signage and fencing to ensure everybody is kept safe. He made the point that within 100 yards of the site there is a small pocket park which the local children can use along with a new primary school which is being built in the area. Mr Parsons added that the application site is not a suitable area for children to play in due to the many changes in levels and the fact that the area is just a concrete surface. Councillor Sennitt Clough expressed the view that the application site will probably be far more attractive to the children rather than the playground and asked whether he would consider undertaking a leaflet drop to the local area in order to make parents aware? Mr Parsons stated that as a matter of course whenever he is undertaking development in a built-up area his company contact all of the neighbours and provide contact details so that any issues can be reported and he added that he would be willing to undertake a leaflet drop. Councillor Sennitt Clough made the point that she appreciates that the site will be secure and, therefore, will prove difficult to access, however, as the site has been unused for so long, she feels that the steps to notify the neighbours will be a worthwhile exercise.
- Councillor Gerstner asked how he intends to dispose of all of the concrete from the site and for the detail concerning any surface water and drainage strategy as the report states that there is not one in place. He added that the area was well developed in the 1950s and whilst the area is not prone to flooding it does suffer in heavy rain episodes. Mr Parsons stated that the concrete will be disposed of via a licensed carrier and whilst some of it will be crushed and used on site due to the fact that there is likely to be too much then some will be removed from the site. He explained that with regards to a drainage strategy there was a drainage scheme supplied with the application, however, it may not have satisfied the Planning Officer, but there is surface and foul drainage within the site already which the proposal could possibly connect up to, however, this needs to be explored further to ascertain whether a soakaway would be possible or not.
- Councillor Gerstner asked whether he has permission from Anglian Water for disposal of foul and surface water?. Mr Parsons explained that he did request the views from Anglian Water, however, they responded to say that they would not review the scheme until outline planning permission was given.
- Councillor Mrs French asked what the site was used for previously? Mr Parsons stated that it is his understanding that it had been owned previously by the Council and had been used as a garage site and the garages have been demolished leaving a concrete area. Councillor Mrs French asked whether there is currently any mains sewerage on the site? Mr Parsons

stated that there are two manholes, a foul and a storm drain.

- Councillor Connor stated that he finds it very refreshing to learn that Mr Parsons has consulted with officers and taken on board their advice with regards to single storey dwellings and that should be applauded. He added that the site will obviously operate under health and safety guidelines and made the point that it would be helpful to add a contact number onto the site notice so that if there is a problem then contact can be made. Councillor Connor referred to the point made by Councillor Gerstner and stated that the waste concrete needs to be removed from the site by a licensed waste carrier and he is pleased to hear that Mr Parsons is aware of the steps to be taken. Mr Parsons explained that he has worked previously for much larger developers and at that time he sat on the original committee for the Considerate Constructors Construction Scheme which has now been rolled out across the whole of the UK and, therefore, working with neighbours and local businesses is something which he is very aware of and he will look to ensure that the development follows the same values even though it is a much smaller scheme.

Members asked officers the following questions:

- Councillor Mrs French stated that the application is only in outline form, and should the proposal be approved then local residents will be consulted at the reserved matters stage. Officers confirmed this. She made the point that with regards to the point made by Councillor Sennitt Clough, in her view, it is not down to the applicant to consult with the local residents when it is a function of the Council.

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

- Councillor Imafidon expressed the view that he does not see any issue with the proposal, it is an outline application in a built-up area and at the current time the site is largely a concrete area and by the time it is developed there will be green areas for rainwater attenuation.
- Councillor Connor stated that it a brownfield site and has had garages on it previously and as members of the committee are aware there is always a steer for brownfield sites to be used if at all possible and he will support the application.

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

(Councillor Gerstner declared, in accordance with Paragraph 14 of the Code of Conduct on Planning Matters, that he is a member of Whittlesey Town Council, but takes no part in planning)

3.46 pm

Chairman