

# PLANNING COMMITTEE



**3 JUNE 2015 - 1.00PM**

**PRESENT:** Councillor A Miscandlon (Chairman), Councillor S Clark (Vice-Chairman), Councillor Mrs S Bligh, Councillor M G Bucknor, Councillor M Cornwell, Councillor Mrs A Hay, Councillor Mrs D Laws, Councillor Mrs K F Mayor, Councillor P Murphy, Councillor Mrs F S Newell, Councillor C C Owen, Councillor W Sutton.

**APOLOGIES:** Councillor D W Connor, Councillor S R Court, Councillor Miss S Hoy

Officers in attendance: G Nourse (Head of Planning), S Manley (Development Manager), R McKenna (Principal Solicitor - Litigation), Mrs S Black (Team Leader), Mrs K Brand (Senior Development Officer) Ms A Callaby (Development Officer), Miss S Smith (Member Services and Governance Officer)

## **P1/15      APPOINTMENT OF CHAIRMAN FOR THE MUNICIPAL YEAR**

Councillor Miscandlon was appointed Chairman of the Committee for the municipal year.

## **P2/15      APPOINTMENT OF VICE-CHAIRMAN FOR THE MUNICIPAL YEAR**

Councillor S Clark was appointed Vice-Chairman of the Committee for the municipal year.

## **P3/15      MINUTES OF THE MEETING OF 29 APRIL 2015**

The minutes of the meeting of 29 April 2015 were confirmed and signed, subject to the following amendment from Councillor Hodgson:

Page 2 - Councillor Hodgson's clarified that his second reason for deferring the South Wisbech Broad Location for Growth Concept Plan was that Wisbech Town Council could not respond to the Broad Concept Plan as they had not received it and therefore could not have responded.

**\* FOR INFORMATION OF THE COUNCIL \***

## **P4/15      F/YR14/0828/F WISBECH - BLACK HART PUBLIC HOUSE, WISBECH ROAD, THORNEY TOLL - ERECTION OF 6NO 2-STOREY DWELLINGS COMPRISING OF 3 X 3-BED AND 3 X 2-BED INVOLVING DEMOLITION OF EXISTING PUBLIC HOUSE**

Members considered 1 email query.

The committee had regard to its inspection of the site (as agreed in accordance with the Site Inspection: Policy and Procedure (minute P19/04 refers)) during its deliberations.

Members were to have received a presentation, in accordance with the local council participation procedure, from Councillor Broker, Parish Councillor, however, he was not in attendance.

Members received a presentation, in accordance with the public participation procedure, from Mr Bennis, the Applicants Agent. Mr Bennis thanked members for allowing him to talk to the

committee. Mr Bennis stated that the Black Hart Public House is the first building past the Fenland District Council sign on the way into Thorney Toll. He pointed out that the building is in a dilapidated and sorry state, being a former public house and in a serious state of disrepair. Mr Bennis stated that Elgoods Breweries attempts to run the public house for 80 years had failed to make it pay and correspondence is available from Elgoods to confirm this. He stated that from 2012 there was no tenant or attempt to make it run as a going concern. Mr Bennis stated that the pub trade is dying out and 29 pubs close every week in the UK, with high taxes on beer when compared with supermarkets and changing demographics. He pointed out that pubs have been replaced by eateries serving alcohol.

Mr Bennis confirmed that there are two successful restaurants in the village and with new drink driving laws a pub is a difficult proposition for anyone. He pointed out that Thorney Toll is a thriving community with local businesses, a village hall, shop, filling station and restaurants. Thorney Toll is trying to improve its community and the application is supported by the Parish Council and the village will be stifled if the application is not granted. He stated that it is the opinion from local discussion that the village needs some limited growth to flourish, this proposal would create six houses of low market cost for first time buyers which are desperately required in the Fenland district. Mr Bennis pointed out that the development falls within the existing development of Thorney Toll, the housing is in Flood Zone 3 and the risk has been designed out and there is a precedent to allow building in Flood Zone 3 in some areas and made reference to a 2013 application in Colvile Road, Newton.

Mr Bennis asked members to consider their decision with an open mind and to see it as an exception site to benefit the community with six homes for first time buyers and to improve the gateway into the district.

Councillor Owen asked Mr Bennis when the property was closed. Mr Bennis responded that the Public House was closed in 2012.

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

- Councillor Murphy commented that the application falls short and must show viability that it cannot be a pub for the community, he made reference to a similar application at Purls Bridge, Manea which has been stopped until a viability study has been shown. He commented that Thorney Toll is a small hamlet and the application falls short of paragraphs 28 and 70 of the NPPF, is contrary to LP3 of the Local Plan and paragraph 55 of the NPPF. He stated that it is in Flood Zone 3, he asked if it had ever flooded commenting that flood zones are worked to 1:100 or 1:200 years and it may not flood this year but could do in 2-3 years time and members should take into account LP14, NPPF and Planning Practice Guidance;
- Councillor Owen commented that he had heard Councillor Murphy's reference to Manea and Purls Bridge and the request for a viability test and now it is being asked for this property and commented that it will be known that this pub wasn't viable in the 1990's and why go through expensive tests. Officers responded that in the refusal reasons it is a requirement to show that the business has been marketed at an appropriate figure and documented in the submission, it could be overcome as a reason for refusal but the information has not been made available. Officers pointed out that there is a policy that addressed urban uses and members need to be sure that the property cannot be used for another commercial use as there is a policy requirement for that. Officers clarified that the application was not being refused on the basis of the evidence submitted, the applicant has not submitted any evidence which is a problem and needs to demonstrate that there is not an alternative use;
- Councillor Owen commented that members have heard the argument for being in the open countryside and village areas, the issues regarding flooding on page 19 and commented that the area has not flooded recently and why is this being considered when it is not

recorded that the area is susceptible to flooding. Councillor Miscandlon responded that the guidance from the Environment Agency has to be taken into account;

- Councillor Hodgson commented that he has concerns and asked if it would upset nearby businesses, there are no highways objections and he would support the application;
- Councillor Bucknor asked officers if there was any pre-application meeting prior to the application being submitted and were the requirements for proof of non viability mentioned to the applicant. Officers responded that when the application is submitted the applicant must have regard to the Local Plan as a starting point, there is a requirement for that despite what happens at the pre-application stage. Councillor Bucknor commented that it was his understanding that applicants would be told beforehand in the pre-app stage;
- Councillor Sutton commented the he fully supported the officers report, whether it is viable or not does not mean that it can be built on if not viable. He commented that on the member training the Local Plan does not mention Thorney Toll as a village and is looked on as a building in the countryside and the applicant must carry out a viability study if it is to be converted into a dwelling. He stated that the application does not fit into the Local Plan and he supported officer recommendations;
- Councillor Mrs Mayor raised the same question as Councillor Bucknor regarding pre-application advice and asked officers why the applicant is not asked for the necessary information before the application is considered at Planning Committee and feels that this should be sorted out before this stage of the proceedings. Councillor Mrs Mayor commented that the original objection was from the Environment Agency, North Level have no objections, the pub is an eyesore and permission had been refused in 2012 to convert it to a dwelling and asked what is going to be done with the building as it stands;
- Councillor Murphy commented that members have short memories, they spent 20 years complaining that they could not work with the old plan, it has taken 3 years to adopt the new Local Plan, it was passed by the Secretary of State and members must decide whether to bypass and if they go against the policies they may as well scrap the new Local Plan and go back to 1993;
- Councillor Cornwell commented that members do have the new Local Plan and have to stick to it, there may have been a shortcoming within the pre-app stage, it is not relevant to the application as it stands at the moment and should simply be judged on the elements the officers have drawn to members attention, anything else is irrelevant and should be decided according to the Local Plan;
- Councillor Mrs Newell commented that there are exceptions to every rule, they are not set in stone, if local residents wish to stay in a village or hamlet small developments should be considered so that they can stay;
- Councillor Bucknor commented that he disagrees with Councillor Cornwell, stating that there were problems with pre-apps in 2014 and non viability, it is not irrelevant and procedural lines are required. Officers responded that there was pre-application discussion with the previous case officer, the case officer had asked the applicant in October for a statement of viability, this was submitted, this has since been reviewed and it is not comprehensive and is not able to satisfy the application completely.

Proposed by Councillor Sutton, seconded by Councillor Bucknor and decided that the application be:

#### **Refused for the following reasons:**

- 1. Policy LP6 of the Fenland Local Plan 2014 requires proposals that would lead to the loss of community facilities to demonstrate that the retention of the facility is no longer financially viable and an appropriate marketing exercise has been carried out, and it can be demonstrated that there is a lack of community need for the facility or an alternative facility is provided. The proposal fails to adequately demonstrate that the existing facility is no longer viable nor that a comprehensive marketing exercise**

- has been undertaken, accordingly the proposal is contrary to Policy LP6 of the Local Plan and to paragraph 28 and 70 of the National Planning Policy Framework (2012);
2. Policy LP3 of the Fenland Local Plan 2014 requires new development to be located within existing settlements unless it is demonstrably essential to the effective operation of local agriculture, horticulture etc. The proposal would therefore result in an unjustified residential development located outside of any main settlement within the open countryside which would harm the future delivery of the Fenland Local Plan by reasons of it constituting an unsustainable form of development. As a result the proposal is contrary to Policy LP3 of the Fenland Local Plan and to the provisions of the National Planning Policy Framework (2012), with particular reference to paragraph 55;
  3. The application site lies within Flood Zone 3, and is therefore susceptible to a high probability of flooding. The development type being proposed (ie dwellings) is classified as 'more vulnerable' in accordance with the Planning Practice Guidance (online) (2014) which makes it clear that this type of development is not compatible with Flood Zone 3 and should not be permitted. The proposal is not supported by sufficient evidence to demonstrate compliance with the sequential or exception test as required by the National Planning Policy Framework (2012) and Planning Practice Guidance (online) (2014). As such the proposal is contrary to Policy LP14 of the Fenland Local Plan (2014 and to the guidance contained in the National Planning Policy Framework (2012), and the Planning Practice Guidance (online) (2014).

**P5/15**

**F/YR14/0928/O**

**LEVERINGTON - LAND NORTH WEST OF SEAFIELD FARM, GOREFIELD ROAD  
- ERECTION OF 3 X DWELLINGS**

The committee had regard to its inspection of the site (as agreed in accordance with the Site Inspection: Policy and Procedure (minute P19/04 refers)) during its deliberations.

Members received a presentation, in accordance with the public participation procedure, from Mr Campbell, the Applicants Agent. Mr Campbell requested that officers show a plan of the overall scheme on the screen. Mr Campbell stated that he would put the application into context, it had been approved under the old local plan, it was classed as a heritage asset, the buildings should have been kept and due to the recession has subsequently been stopped and started and referred members to the viability a key word in the NPPF, resulting in independent figures and valuation, required by the council, which still produced £170,000 loss without providing affordable housing and the considerable loss could not be made up in the short or medium term, the approval of the 3 additional units would make the whole scheme viable and this had been accepted by the technical officers. Mr Campbell stated that members should be directed to approval, when it first started it was based on the old local plan with DAB, now we have the new Local Plan there are no DABs. He pointed out that this site is clearly adjacent to the built up area and in terms of the Local Plan can be developed and secondly cannot be sequentially tested in terms of flooding because it is a developed site. Mr Campbell claimed that officers accept this is a sustainable development and therefore he feels it should be approved. There are no objections from the Environment Agency, is in Flood Zone 2 and 3 and an adjacent development is recommended for approval.

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

- Councillor Murphy commented that members had looked at the area on the site visit, he agreed with officers and commented that most of the issues put forward by the Agent were not planning considerations and the viability of building 3 for the other 2 is not a planning consideration. Councillor Murphy made reference to comments that if permission is not granted for the 3 building work will not continue with the others, this is not a planning consideration and he feels that members are being held to ransom over this application and

stated that he had never been 'held to ransom' over the last 30 years and would not start now and he takes exception to this approach.

Proposed by Councillor Sutton, seconded by Councillor Mrs Laws and decided that the application be:

**Refused for the following reasons -**

1. **Policy LP12 of the Fenland Local Plan requires development to be located in or adjacent to the developed footprint of the settlement this accords with the sustainability requirements of Policy LP1 and serves to resist inappropriate development in open countryside locations. This proposal is clearly contrary to the aims of this policy framework and would result in unsustainable development in an open countryside location without justification contrary to Policy LP12 of the Fenland Local Plan (2014);**
2. **Policy LP14 of the Fenland Local Plan and Section 10 of the NPPF seek to resist development area of high risk flood area, with the safety implications of an alternative stance being further reinforced in Policies LP2 and LP12 of the Local Plan. The applicant has not provided any evidence to establish that there are no other sites in areas with a lower probability of flooding and accordingly the proposal fails the sequential approach to flood risk as it would result in an unwarranted intrusion into any area susceptible to flooding thereby compromising the safety of future residents and being contrary to Policies LP2, LP12 and LP14 of the Fenland Local Plan (2014).**

**P6/15      F/YR14/1020/O  
MARCH - LAND EAST OF BERRYFIELD, BERRYFIELD - ERECTION OF 30  
DWELLINGS (MAX)**

Members considered 20 letters and emails of objection.

The committee had regard to its inspection of the site (as agreed in accordance with the Site Inspection: Policy and Procedure (minute P19/04 refers)) during its deliberations.

Officers informed members that:

- At the request of Members during the Site Inspection the Town Council's full response had been circulated by email to them on 2 June 2015;
- A further letter from a local resident had been received who had previously opposed the application and the concerns/objections had been addressed in the report. A copy of the letter had been circulated to members.

Councillor Owen commented that the local resident had previously opposed the proposal and the update from officers suggested that they now support. Officers clarified the position regarding the local resident and referred Councillor Owen to the letter of objection from the resident noting that these concerns have been addressed.

Members received a presentation, in accordance with the public participation procedure, from Mr Rutter, an objector to the proposal. Mr Rutter informed members that he had been a resident on Berryfield for 19 years and reminded members that they are here due to the level of objections and views of the Town Council. Mr Rutter referred to the March Neighbourhood Plan and this development would be contrary to that. Mr Rutter stated that he is opposed to the development and he believes that there are important issues that members need to be aware of before making their decision on the application.

Mr Rutter stated that there are traffic problems in Station Road, since Berryfield was built 27 years ago 600 houses have been built to the north of the level crossing and in addition Whitemoor have generated much more traffic. Mr Rutter stated that rail traffic has increased and continues to increase with 23 increased to 48 passenger trains and 100 to over 200 trains, which will add the the already congested traffic.

Mr Rutter stated that employees parking on Elm Road nearby creates a one way system in and out of the estate and it is remote from most of the towns facilities, is in close proximity to the railway, over 2 miles away from Neale Wade Community College and 1 mile from the town centre. Mr Rutter pointed out that there are more suitable sites identified in the Local Plan and the Council has acknowledged via the local planning process that this area is less sustainable. Mr Rutter made reference to LP1 of the Local Plan the overarching strategy to say that any future development must benefit existing residents, stated that this proposal does not meet those requirements and should be refused.

Members received a presentation, in accordance with the public participation procedure, from Mr Lancaster, an objector to the proposal. Mr Lancaster requested that members take into account the floods that took place in Burnet Gardens on the opposite of the road which had flooded and had raw sewage in the street last year. He pointed out that there are a colony of bats that could be disturbed and wildlife that would be lost. Mr Lancaster stated that traffic is important, he is a keen cyclist and it is only a matter of when someone gets killed on Station Road as it is a very dangerous route for cyclists.

Members received a presentation, in accordance with the public participation procedure, from Mr Hickling, the Applicants Agent. Mr Hickling informed members that he was substituting for Mr Maxey and stated that they had liaised with officers to reach the stage where the application could be considered for approval. Mr Hickling stated that he was waiting for the principle of the development to be approved for the application to progress. Mr Hickling stated that Highways are happy with the traffic plans which are suitable, the S106 deals with contributions and an archaeology plan has been agreed to dig 7 trenches at a cost of £10,000, along with a pre-commencement condition for Middle Level prior to approval of reserved matters whichever is preferred by the Environment Agency and Middle Level. The S106 contribution will provide funding for enhancement of Estover Playing Field, the agent is aware of the objection to the previous allocation of 450 dwellings and development of the playing field, the playing field is safeguarded and this is welcomed. Mr Hickling stated that this plan is for a maximum of 30 dwellings, is an improvement for the area and consent should be supported as there are no technical or policy grounds to refuse the application.

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

- Councillor Mrs Newell commented that the agent did not make any reference to the importance of archaeology of the area, the site was used by the Romans and there was no mention about the importance of the loss of agricultural land and we have to import vegetables from other countries as a result of agricultural land being built on. Officers responded that they do recognise that Grade 2 land will be lost, with the Local Plan policies also recognising that it is always likely that some agricultural land would be lost. Councillor Mrs Newell commented that there is other land available that could be built on first in her opinion. Councillor Miscandlon responded that archaeology had been given considerable thought on page 38 of the report and there are two reasons why the archaeology has not been invested in upfront, officers recognise the work ahead and if the principle is established, if the archaeology work is not done then the Council can refuse the application;
- Councillor Hodgson asked officers if the site was in Flood Zone 1. Officers confirmed that the site lies within Flood Zone 1, stating that a strategy can be developed to dispose of surface water, there is a problem with Middle Level agreeing to this, however this can be

- dealt with and be included in the planning conditions;
- Councillor Mrs Laws commented that she is sensitive about flooding areas and Anglian Water are saying that the Water Recycling Centre would lead to unacceptable risk of flooding downstream. She commented that the bigger picture is that more concrete will be put into the ground near to flood areas which is going to cause a problem and the chief concern is flood risk to existing residents and she would feel better if this could be addressed. Officers responded that the current guidance states that water should be held within a site and strategies would not be approved unless this was possible, there are mitigating measures to hold the water and there would be no more increased water hitting the water course. This would make sure that the risk of flooding is held on site and controlled and released slowly over time;
- Councillor Sutton commented that flood measures will be agreed with relevant authorities and the Local Plan does support development in this area. The allocation of 450 dwellings has been taken out and the Inspectors report stated that development can come forward. Councillor Sutton commented that he takes on residents concerns and that when the plan was for 450 dwellings Highways advice was that the current road network was suitable for extra traffic and this development is for 30 dwellings;
- Councillor Bucknor agreed with Councillor Sutton if the recommendation is accepted for Outline permission, he understands that an archaeology investigation will take place within three months of this meeting, if nothing of archaeological importance is found it is understood that the applicant will proceed.

Proposed by Councillor Hodgson, seconded by Councillor Sutton and decided that the application be:

**Granted, subject to:**

1. **An archaeological investigation being submitted within 3 months of the date of this committee with no significant findings resulting in the development being unable to proceed;**
2. **Completion of a Section 106 obligation relating to affordable housing, open space, education, library provision and rail enhancement;**
3. **Conditions listed below and any additional conditions which may be required by the CCC Historic Environment Team**
4. **The Head of Planning be authorised to determine the application after consultation with the Chairman and the Vice-Chairman of the Planning Committee, the Portfolio Holder for Neighbourhood Planning and a Ward Councillor for March North following the completion of the archaeological investigation and no new issues arising;**

or

**Refuse for the following reasons -**

1. **In the event that the applicant is unwilling to carry out the archaeology investigation necessary ahead of planning permission being granted.**

**Conditions**

1. **Approval of the details of:**
  - i. **the layout of the site**
  - ii. **the scale of the building(s);**
  - iii. **the external appearance of the building(s);**
  - iv. **the landscaping**
  - v. **access**

(hereinafter called "the Reserved Matters" shall be obtained from the Local Planning Authority prior to the commencement of development).

**Reason - To enable the Local Planning Authority to control the details of the development hereby permitted.**

**2. Application for approval of the Reserved Matters shall be made to the Local Planning Authority before the expiration of 3 years from the date of this permission.**

**Reason - To ensure compliance with Section 92 of the Town and Country Planning Act 1990.**

**3. The development hereby permitted shall begin before the expiration of 2 years from the date of approval of the last of the Reserved Matters to be approved.**

**Reason - To ensure compliance with Section 51 of the Planning and Compulsory Purchase Act 2004.**

**4. Prior to the commencement of the development full details (in the form of scaled plans and/or written specifications) shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority to illustrate the following:**

- a) The layout of the site, including roads, footways, cycleways, buildings, visibility splays, turning area(s), parking provision, surface water drainage and street lighting.**
- b) The siting of the building(s) and means of access thereto.**

**Reason – In the interest of highway safety and in accordance with Policies LP15 and LP16 of the Local Plan.**

**5. Notwithstanding the submitted outline drainage strategy, no development shall commence until a detailed surface water drainage strategy has been submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied until the works have been carried out in accordance with the foul water strategy so approved unless otherwise approved in writing by the Local Planning Authority.**

**Reason - To prevent environmental and amenity problems arising from flooding and in accordance with Policies LP14 and LP16 of the Local Plan 2014.**

**6. No development shall commence until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied until the works have been carried out in accordance with the foul water strategy so approved unless otherwise approved in writing by the Local Planning Authority.**

**Reason - To prevent environmental and amenity problems arising from flooding and in accordance with Policies LP14 and LP16 of the Local Plan 2014.**

**7. The details submitted in accordance with Condition 1 of this permission shall include:**

- (a) a plan showing (i) the location of, and allocating a reference number to, each existing tree on the site which has a stem with a diameter, measured over the bark at a point 1.5 m above ground level exceeding 75 mm, showing which trees are to be retained and the crown spread of each retained tree and (ii) the location of hedges to be retained and details**



of species in each hedge.

(b) details of the species, diameter (measured in accordance with paragraph (a) above), and the approximate height, and an assessment of the general state of health and stability, of each retained tree and of each tree which is on land adjacent to the site and to which paragraphs (c) and (d) below apply;

(c) details of any proposed topping or lopping of any retained tree or of any tree on land adjacent to the site;

(d) details of any proposed alterations in existing ground levels, and of the position of any proposed excavation, within the crown spread of any retained tree or of any tree on land adjacent to the site and within 2 metres of any retained hedge.

(e) details of the specification and position of fencing and of any other measures to be taken for the protection of any retained tree or hedge from damage before or during the course of development;

(f) the plans and particulars submitted shall include details of the size, species, and positions or density of all trees or hedges to be planted, and the proposed time of planting. In this condition 'retained tree or hedge' means an existing tree or hedge which is to be retained in accordance with the plans referred to in paragraph (a) above.

Reason - To ensure that the appearance of the development is satisfactory and that it contributes to the visual character and amenity of the area and to protect the character of the site in accordance with Policy LP16 of the Local Plan.

Members took a 10 minute break following determination of this application.

**P7/15**            **F/YR15/0090/O**  
**COATES - LAND SOUTH OF 72 FIELDSIDE - ERECTION OF 3NO DWELLINGS**

The Chairman informed members that this application had been withdrawn from the Agenda and the application deferred as a new Land Ownership Certificate has been submitted and deferral will allow for the new landowners to make representations within the consultation period.

**P8/15**            **F/YR15/0117/F**  
**GUYHIRN - PLAY 2 DAY, OLD STATION YARD, GULL ROAD - CHANGE OF USE FROM AGRICULTURAL LAND TO FORM EXTENSION TO CAR PARK INVOLVING THE ERECTION OF A 2.0M HIGH CHAIN LINK FENCE AND THE RELOCATION OF THE EXISTING AGRICULTURAL ACCESS AND RAISING THE LAND LEVELS**

The Chairman informed members that this application had been withdrawn from the Agenda as further information has been requested from the applicant and was not available in time to be considered at this meeting.

**P9/15**            **F/YR15/0284/F**  
**WISBECH - LAND NORTH EAST OF GOLDEN VIEW, NORTH BRINK - CHANGE OF USE OF LAND FOR THE SITING OF 2NO MOBILE HOMES (1NO RETROSPECTIVE) AND ERECTION OF 1 X 2-STOREY GARAGE/STORAGE BUILDING, 1 X GARAGE/WORKSHOP AND 5 METRE HIGH FLOODLIGHT**

Members considered 3 representations of support and 2 representations of objection.

The committee had regard to its inspection of the site (as agreed in accordance with the Site Inspection: Policy and Procedure (minute P19/04 refers)) during its deliberations.

Officers informed members that:

- The Environment Agency (EA) Consultation response: The site lies within Flood Zone 3 defined by the Technical Guide to the National Planning Policy Framework as having a high probability of flooding. However, the site lies just outside the Tidal Nene Hazard mapping extents for the 2115, 1,000 year breach scenario. The location of the proposed caravan lies outside the mapping extents;
- The EA note the proposed mitigation for the development, as per the Flood Risk Assessment (FRA). However, the proposed mobile home, intended for permanent residential use, is classed as highly vulnerable and therefore is deemed inappropriate in Flood Zone 3. Your Authority will need to make a decision from a Sequential Test point of view;
- The Environment Agency Position: The proposed development will only meet the requirements of the National Planning Policy Framework if the following measure(s) as detailed in the FRA with this application are implemented and secured by way of a planning condition on any planning permission;
- Comments also included noting that the LPA must be satisfied with regard to the safety of people, their ability to reach places of safety and safe refuge and the ability of emergency services to access such buildings to rescue and evacuate those people;
- Site Visit follow up:
  1. How long have the existing buildings and unlawful mobile home been in-situ? *The applicant has confirmed that her brother's mobile unit has been on there since 27 March and he is currently paying council tax for the property;*
  2. Requested an update regarding the rules and application of the GTANA. *The GTANA is as written, although it is unlikely to be challenged at a forthcoming appeal. To recap the Gypsy and Traveller Needs Assessment (2013) states that the Local Authority can deliver its identified need for traveller pitches up to 2026 and that there is no need for additional pitches. Notwithstanding this Policy LP5 - Part D identifies that proposals will still determine applications on a case-by-case basis;*
  3. Are the touring caravans being lived in/can they be used for accommodation? *The applicant has confirmed that the smaller of the touring caravans belongs to her parents and they use it for travelling, the larger touring caravan is the applicants which she uses for travelling and staying in when her son is poorly and they need to be close to the family. They are also both used for when her sisters and other family come to stay, they are used for travelling not for living in. They are normal touring caravans, which anyone would have;*
  4. What will happen to the unauthorised Mobile if application refused? *The applicant will be invited to remove the mobile unit from the site to avoid the need for compliance activity;*
  5. Is Golden View also in Flood Zone 3 and does it have planning permission? *Golden View lies within Flood Zone 3 and as indicated in the report it was granted planning permission in 1990 (see history section). This decision predates the Flood Risk Guidance of National Planning Policy (PPG25 published 2001);*
  6. How many times has the area flooded and when did it last flood? *The submitted FRA notes that there is no flood history for the area and that there was no flooding on the 12 December 2013 when the River Nene reached a level considered at or around the predicted 1:200 year event during a storm surge. The applicant has confirmed that the area has never flooded since 'we' have lived there, my dad prior to living here was at Jubilee Cottage further down North Brink towards Guyhirn and he has never seen the area flooded, he has lived in this area all his life.*

Members received a presentation, in accordance with the public participation procedure, from Mrs Wilson, the Applicant. Mrs Wilson confirmed that she has provided the Council with the family tree of the Cunningham family who have lived in Fenland and been part of the local community

with 5 generations living locally, numbering 135 family members. Mrs Wilson stated that the Council have acknowledged, under LP5 of the Local Plan that Gypsy status is prescribed at birth and is her ethnicity. Mrs Wilson stated that she is a Gypsy Traveller and has moved from travel trailers and changed to mobile homes since 1989. Mrs Wilson stated that her father needs to extend the family home for them to remain as a family, her brother has children, she lives with her husband at Parson Drove. Mrs Wilson confirmed that she has a poorly child and needs her parents to care for him whilst she is at work and needs the support of her family. She confirmed that she had not provided medical evidence but clarified that her son has recently had a 24 hour eeg for epileptic seizures, has had MRI scans and has been diagnosed as very poorly, he has very nearly choked, she works full time and so does her husband and she relies on her family to look after her son.

Mrs Wilson stated that the reason for refusal is given as LP14 and it is also stated in LP8 that West Wisbech has broad location for growth and pointed out that there is a development 1.5 miles down the road on North Brink, currently being developed and it is in Wisbech Strategy as a flood risk area. Mrs Wilson pointed out that she is outside the Flood Risk area, that within the FRAs from EA, Wisbech is all at risk of flooding, when actual flood maps put this application in Flood Zone 1. Mrs Wilson stated that her family have lived on this site since 1979 and would be happy to work with the Council to continue to reside there in a dwelling whether house or mobile residence. Officers pointed out that Policies LP2, LP14 and LP16 state that this area is highly vulnerable in Flood Zone 3.

Councillor Hodgson thanked Mrs Wilson for a very informative presentation.

Councillor Owen asked Mrs Wilson if this application was in the zone which is designated as least likely to flood. Officers responded that they refer to general Flood Zone maps from the Environment Agency and would say that if the River Nene did flood it would be luck if it did not hit this piece of land.

Councillor Mrs Laws commented that Mrs Wilson made a very good presentation and asked her what Flood Risk maps she had used. Mrs Wilson responded that she had contacted the Environment Agency and had done all the work herself and what had been provided to officers was from the Environment Agency.

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

- Councillor Mrs Laws commented that the applicant had made tentative enquiries for a brick building and she was confused that this was not encouraged as there is a property being built 1.5 miles away that is in Flood Zone 3. Officers responded that mobile homes are highly vulnerable, a house is not so vulnerable, the pre-app advice was given in good faith, this proposal is outside the main established footprint of Wisbech and in accordance with the Local Plan was resisted as inappropriate development, the applicant chose to put in a mobile home application, they have Gypsy and Traveller status and their family do a lot of travelling;
- Councillor Cornwell commented that he was concerned about flooding in the Fens, some EA maps show all at risk, detailed maps show pockets, in rural areas with higher ground are still not at the same flood risk, the Council only looks at general and not detailed EA Flood Risk maps. Councillor Cornwell accepts that mobile homes are more at risk, a brick built house can have a roof space, but as long as a resident signs up to a flood warning system and accepts that they are more at risk and take notice of warnings. He explained that the River Nene is a tidal river and accidents can happen, water is more likely to top and trickle over the bank and not go in a rush, it is not something that happens in a second and if the applicant has clearly shown that they have tried to deal with the main issue against what they are trying to achieve, he does not see it as a major issue;
- Councillor Bucknor asked if there is any mitigating protection the applicant can provide for

themselves as he also has a caravan site and a park home site in his ward on Osborne Road and asked for clarification. Officers responded that mobile homes are considered to be highly vulnerable, in two-storey dwellings one could normally go upstairs during a flood, the biggest problem is that mobile homes can be washed away, residents can climb on the roof, however the mobile home could be carried away and this is why they are deemed highly vulnerable. Officers also responded that care should be taken when saying that flood defences can be breached slowly, officers are not experts, however flood defences in breach events do sometimes fail. Councillor Bucknor asked if the applicant could mitigate against flooding. Officers responded that two flood defences have been put in place, a concrete retaining wall in 1978 and further flood defences after 1978, the proposal is that the applicant should sign up to the flood warning alert system and the mobile home be raised to a metre above ground level, with a loft space. The EA FRA is satisfied that development should be directed away from Flood Zone 3 and this is the starting point of officers recommendations;

- Councillor Owen commented that he was getting a mixed message from officers, he had a holiday home for over 40 years, it was higher than other properties and was susceptible but did not flood due to it being elevated, it is clear that the applicant knows what they are taking on and he believes that the warnings about flood in respect of this plot are misleading and misguided;
- Councillor Mrs Laws commented that when you have a flood situation, water comes up through the ground, flood warnings are given, there are stages of alerts, you are warned and prepared and there is an evacuation procedure and it is entirely up to residents whether they go to evacuation centres. Councillor Mrs Laws commented that every property in flood zones are susceptible to flooding and each should be considered on its own merits. Councillor Mrs Laws commented that the family have been residents for so long that they do not want to be broken up, the Council is trying to build communities and members should look to approve this application.

Proposed by Councillor Mrs Laws, seconded by Councillor Hodgson and decided that the application be:

**Granted, contrary to officers recommendations.**

**Members determined that the Head of Planning in consultation with the Chairman and Vice-Chairman of the Planning Committee be authorised to formulate suitable and correct conditions.**

**Members do not support officers recommendations to refuse planning permission as they feel that the risk of flooding is less than anticipated when considered on actual Flood Zone areas and maps.**

*(Councillor Miscandlon registered, in accordance with Paragraph 2 of the Code of Conduct on Planning Matters, that he had been lobbied on this application)*

*(Councillor Bucknor stated that he is a Member of Wisbech Town Council, but takes no part in planning matters)*

*(Councillor Hodgson stated that he is a Member of Wisbech Town Council, attends Town Planning meetings, but does not respond to any of the applications)*

**P10/15**

**F/YR15/0287/F**

**WHITTLESEY - 50-52 INHAMS ROAD - ERECTION OF 4 X 2-STOREY 2-BED DWELLINGS**

Members considered 1 letter of objection.

The committee had regard to its inspection of the site (as agreed in accordance with the Site Inspection: Policy and Procedure (minute P19/04 refers)) during its deliberations.

Officers informed members that:

- Further comments have been received from the neighbouring objector. The points which have not already been included in their original response are as follows:
  - The proposal will create a frost pocket;
  - Overlooking and loss of privacy;
  - The passageway will run along a flimsy boundary fence;
  - Fumes from car exhausts entering neighbouring windows;
  - Out of keeping with the surroundings;
  - Concerns if gravel is to be used for the car park;
  
- The response to the above comments are as follows:
  - Overshadowing, loss of sunlight, overlooking and loss of privacy have already been addressed within the main committee report;
  - The condition of the fence is a matter for its owner to resolve, not for this planning application;
  - The comments relating to fumes have been noted however since no objections have been raised by FDC Environment Protection with regards to air quality, it would be difficult to substantiate a reason for refusal on these grounds;
  - The impact on the character of the area has already been assessed;
  - The parking area is to be finished in concrete blocks;
  
- The comments raised by the neighbour have been noted and there are no proposed changes to the recommendation.

Members received a presentation, in accordance with the public participation procedure, from Mr Walker, the Applicants Agent. Mr Walker confirmed that the site contains two dilapidated dwellings, there is an approval for demolition of dwellings and dead trees and a variety of development adjacent to the site. Mr Walker stated this scheme is for 2-bed starter homes which are encouraged by the Government and much needed in the Whittlesey area. Mr Walker stated access to the site already exists with two separate entrances for each dwelling. There is a sub-station to the south of the entrance and meetings have been held with engineers to carefully discuss demolition and the new dwellings as the applicant did not want the same building line as currently exist. Mr Walker stated that parking allows vehicles to enter and leave the site in forward gear and he disagreed with the overlooking issues, he believes this scheme reduces overlooking, plot 1 will only overlook the rear garden of number 48 and will not be affected as much as claimed by the officers. Mr Walker stated that the design is in the traditional vernacular, has the support of Whittlesey Town Council and he hoped that members would approve the scheme.

Councillor Bucknor asked Mr Walker what the circular design was on the site plan, was it a manhole? Mr Walker confirmed that it is a manhole and access into the entrance of the site.

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

- Councillor Murphy commented that this proposal is totally against LP2 and LP16, constitutes overintensification of the site, detracts visually and in scale and density, causing harmful impact to neighbouring gardens and harms the area;
- Councillor Cornwell commented that he does not know the site, in his opinion it appears to be very bland, not attractive, does not fit in and the design at the front is boring and has no architectural attributes;
- Councillor Mrs Mayor commented that the road is the road to Whittlesey Industrial Estate, used by hundreds of articulated lorries and the only plus side is that the development actually gets parking off the road. Councillor Mrs Mayor commented that she does not like the look of the proposal, there is permission to demolish the old property and it is obvious that the planning application is overintensification of the site;
- Councillor Mrs Hay commented that the proposal is overintensification of the site, is poor visually and if the development were to be redesigned it would have less impact on the road;
- Councillor Miscandlon confirmed that this is the approved route designated by Highways on the A605 to the Industrial area and Councillor Mrs Mayor confirmed that this is correct;
- Councillor Sutton commented that he agreed with the other speakers, the site is overintensified, parking will be a problem there are 8 spaces, 6 are acceptable and if someone parks behind the designated space for Plot 4 how will they get out, it is poor design in the extreme;
- Councillor Bucknor asked for clarification regarding the parking spaces. Officers responded that they do not know which parking space is allocated for each plot;
- Councillor Mrs Mayor asked what the block was for in front of the electrical sub-station. Officers confirmed that this is parking for 41 and 43 Station Road.

Proposed by Councillor Mrs Mayor, seconded by Councillor Murphy and decided that the application be:

**Refused for the following reason:**

1. **Policy LP16 (d) of the Fenland Local Plan requires new development to make a positive contribution to local distinctiveness and character of the area, improve the character of the local built environment and not adversely impact on the street scene. By reasons of the position of the building to the rear of the site and the car park to the front, the proposal would fail to respond to the local characteristics of the area. The design of the proposal appears bulky and overbearing by reasons of the lack of variation in the design and the lack of visual breaks. The development would therefore appear as an incongruous feature within the street scene, which would be to the detriment of the character and visual amenities of the area. The application is therefore contrary to policy LP16 (d) of the Fenland Local Plan 2014.**
2. **Policies LP2 and LP16 (e) of the Fenland Local Plan require new development to promote high levels of residential amenity. The scale of the development and its proximity to the neighbouring property at 48 Inhams Road is such that the northern elevation of the proposal would dominate their outdoor private amenity area by reason of overbearing and visual impact. The location of the first floor rear bedroom window serving plot 4 and the proximity of the proposal to 37 Station Road is such that there would be opportunity to overlook directly into the private garden are of 37 Station Road. As a result, the occupiers of 48 Inhams Road and 37 Station Road would suffer from an overbearing impact and loss of privacy from the proposal which would be to the detriment of their residential amenities. The application is therefore contrary to policies LP2 and LP16 (e) of the Fenland Local Plan 2014.**

*(Councillor Mrs Mayor stated that she is a Member of Whittlesey Town Council, but takes no part*

in planning matters)

(Councillor Miscandlon registered in accordance with Paragraph 15 of the Code of Conduct of Planning Matters, that he is a Member of Whittlesey Town Council Planning Committee and stated that he will consider all relevant matters before reaching a decision on this proposal)

**P11/15**

**TPO 03/2014**

**MARCH - 33 GAUL ROAD - 1 ASH, 2 FOXGLOVE, 3 HORNBEAM, 1 WEEPING WILLOW, 1 PERSIAN IRONWOOD, 3 SILVER BIRCH AND 1 SYCAMORE TREES ON LAND AT AND TO THE REAR OF 33 GAUL ROAD, MARCH**

Members considered the current situation in respect of confirmation of a Tree Preservation Order (TPO) at 33 Gaul Road, March, to determine an appropriate course of action.

The committee had regard to its inspection of the site (as agreed in accordance with the Site Inspection: Policy and Procedure (minute P19/04 refers)) during its deliberations.

Officers informed members that:

- Residents from 8 Park View East have ongoing maintenance problems with regard to tree T12 marked on the Site Plan, there is shade from the tree which reduces daylight to their property;
- The tree does not cause additional harm and the tree was on the site before the houses were built.

Members received a presentation, in accordance with the public participation procedure, from Mr Kelsey, an objector to the TPO. Mr Kelsey stated he lives at 8 Park View East and informed members that the tree marked as T12 is 13 feet from his property, it has caused damage to his roof to the value of £800, it has received maintenance but has grown again and there is no proof that the roots won't damage the footings of his house. Mr Kelsey confirmed that the tree is a Sycamore.

Members received a presentation, in accordance with the public participation procedure, from Mr Belson, an objector and arboricultural consultant for the owner of the site. Mr Belson stated that the task is to confirm or not confirm the TPO. He informed members that the grounds for making an order are if the trees are making a significant contribution to the local amenity. The purpose of the TPO is to preserve the best trees to enhance visual amenity. The TPO should be used to protect, if removal would alter the view by the public and should not be made to hinder the development. Mr Belson confirmed that some of the trees are considered to have no visual amenity and should not be included in the TPO. Mr Belson suggested that the pruning likely to be needed for tree T02 will be out of relation to the building. The TPO must be defensible, if not to enhance public visual amenity, a past pruning regime would make it difficult to consent. Mr Belson recommended that if a TPO is to be administered, TPOs for trees T10, T11 and T12 would be agreeable.

Councillor Mrs Mayor commented that she is intrigued by tree T07, the Persian Ironwood, she had done her homework and would like to see this tree retained, it is an unusual specimen. Mr Belson responded that this is not sufficient grounds to grant a TPO, he admitted that it is an interesting tree, but Government advice is clear it must have public visual amenity and people must be able to see it, or it is of no interest to the public.

Councillor Mrs Newell confirmed that the trees can be seen by the public from The Chase.

Councillor Mrs Laws asked Mr Kelsey if he was the first person to purchase the house. Mr Kelsey responded that the tree was in situ when he bought the house but was half its current size, it is now 60 feet high and confirmed that the only place it can be seen from is Park View East and only the top 6th of the tree can be seen from West End Park. Councillor Mrs Laws asked Mr Kelsey if he was in touch with the person that owns the tree. Mr Kelsey confirmed that the tree will become part of the parkland. Officers responded that the new development is for four bungalows, this tree falls into one of the plots, it is garden land and will have an owner.

Councillor Sutton asked Mr Belson for his view on maintaining the tree. Mr Belson responded that the owner is obliged to make sure the tree is in a safe condition, commenting that a tree in a perfect place does not need pruning, pruning should be for defects or environmental reasons, this tree will need continual pruning.

Councillor Mrs Bligh asked Mr Kelsey as the first owner of the property if there are any problems with the houses. Mr Kelsey responded he is the first owner of the house and that the house is too close to the tree, being only four metres distance away.

Councillor Mrs Newell asked if properties are built close to trees can root guard be put in. Mr Belson responded that root barrier can deflect roots and needs to be very deep, 3+ metres and has to be very worthwhile to be used.

Councillor Bucknor asked if we have any records of the house. Councillor Miscandlon reminded Councillor Bucknor that this is not relevant to this application.

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

- Councillor Murphy commented that he had seen the tree on the Site Inspection, the application is to agree TPOs, T12 can be seen all the way down the path and from West End Park. He commented that if he had seen a tree half that size he would not have bought a property near it knowing that the tree will grow bigger, it requires maintenance. Councillor Murphy confirmed that he agreed with officers to put a TPO on all the trees in question;
- Councillor Mrs Mayor requested that tree T07 be added to the list and Councillor Mrs Newell agreed with this proposal;
- Councillor Sutton commented that he had been an engineer for 12 years and could not understand why a construction company had not taken this tree (T12) into consideration, further adding that if the tree were to be taken down it would do more damage than to leave it standing and he agreed with officers recommendations for a TPO;
- Councillor Owen asked if Mr Kelsey would be allowed to fell tree T12. Officers responded that it is not his tree, he owns house number 8 and ownership of the tree will fall into the garden of the presently being constructed properties. Officers informed members that the Council's Tree Officer is a sympathiser of the issues with Mr Kelsey and evidence would need to be provided as to why the tree would be felled, by issuing the TPO if the tree were to be felled it ensures that a replacement tree could be provided, probably further away and would ensure control of the replacement tree, would protect amenity of the locality and gives power to control the trees;
- Councillor Miscandlon requested on behalf of Councillor Mrs Mayor that tree T07 be reinstated onto the TPO list as it is an unusual specimen and not very often seen in Fenland and if the garden were to be developed in the future the tree would be retained. Councillor Mrs Newell commented that she had researched the tree T07 and it is very very rare and valuable;
- Councillor Cornwell asked why members are interfering with trees in people's private gardens. Officers responded that a TPO will protect the wider amenity of the trees;
- Councillor Sutton commented that two years ago he had been nicknamed 'chainsaw' after commenting that members should not interfere with people's rear gardens, however he



believed this is slightly different, The Chase is a main footpath into town and used extensively, the trees can be viewed from the park and advised that each case should be considered on its own merits.

Proposed by Councillor Sutton, seconded by Councillor Mrs Mayor and decided to:

**Confirm the Tree Preservation Order (TPO) in respect of the specified trees at 33 Gaul Road, March, with the reinstatement and inclusion of Tree T07, the Persian Ironwood, which is to be retained.**

*(Councillors Cornwell, Court and Owen stated that they are Members of March Town Council, but take no part in planning matters)*

3.40pm

Chairman