

# PLANNING COMMITTEE



**22 JULY 2015 - 1.00PM**

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

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

## **P20/15      MINUTES OF THE MEETINGS OF 22 JUNE 2015 AND 24 JUNE 2015**

The minutes of the meetings of 22 June 2015 and 24 June 2015 were confirmed and signed, subject to amendment to the PRESENT list on 22 June, Councillor Mrs Mayor was listed as Present but was not in attendance.

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

## **P21/15      F/YR15/0134/O WHITTLESEY - LAND NORTH OF WHITTLESEY EAST OF EAST DELPH HYBRID APPLICATION: OUTLINE APPLICATION FOR THE ERECTION OF 220 DWELLINGS (MAX) WITH ACCESS, PUBLIC OPEN SPACE AND ASSOCIATED WORKS/INFRASTRUCTURE. FULL APPLICATION FOR THE ENGINEERING WORKS ASSOCIATED WITH THE FORMATION OF THE VEHICULAR ACCESS ROAD OFF B1040 EAST DELPH**

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 considered 134 letters/emails of representation and objections and a further letter from the Headteacher of Alderman Jacobs Primary School.

Officers informed members that:

- There has been a further 9 local resident objections received reiterating the points previously captured in the officer report, except for the following:
  - The housing supply for Whittlesey should include surrounding villages;
  - Reference is made to a potential 169 housing scheme on land south of Eastrea Road;
  - If permission is granted will the increase in property insurance be met by FDC?;
  - Concerns raised that the committee report does not continue all of the issues raised by local residents;

- In response to these additional points, officers consider that:
  - The villages surrounding the town (Coates, Eastrea, Pondersbridge and Turves) are subject to their own separate and specific housing policies;
  - The Council has issued a screening opinion for the land south of Eastrea Road, but no formal planning application has been received. The site, together with the land to the north of Eastrea Road (known as Bassenhally Farm) forms part of the strategic allocation of 500 new homes for the town. Those 500 homes have been included within the calculations for approved and planned housing in Whittlesey;
  - Property insurance is a private matter and is not a material planning considerations;
  - It is considered that the committee report together with this update addresses all of the considerations that have been raised as part of this proposal.

Members received a presentation in accordance with the local council participation procedure, from Councillor Mrs Jolley, Whittlesey Town Council. Councillor Mrs Jolley stated that:

1. This development site falls outside of the Core Plan 2014 Policy, this area was withdrawn by Officers and Members from the Local Plan. The Core Plan stated that no development should take place to the north of Whittlesey which is where this proposed development is located. Paragraph 14 of the Local Plan makes it crystal clear that there should be a presumption of sustainable development but permission should not be granted where there are specific reasons within the framework policies of why building should be restricted. Locations at risk of flooding are specifically highlighted within this policy;
2. There is a proposal to narrow the road outside 38 The Delph to give priority access to cars exiting this site onto the B1040, this will cause a bottleneck build-up of traffic leading back to the traffic lights at the Morton Fork. Mention is made of using buses, trains, cycles and walking to work or school. Many people work in Cambridge, Huntingdon and Peterborough. We have a severely reduced bus service and trains are situated over 2 miles away from this development and do not stop in Whittlesey on a regular enough basis;
3. The proposed moving of the flood gates to prevent access to the B1040 will cost an enormous sum of money and these gates were specifically placed where they are due to flooding. They were located in the present position as being the most effective area after thorough investigation by Cambridgeshire County Council (CCC) Highways, the Environment Agency (EA) and North Level Internal Drainage Board;
4. The proposed new footpath (currently there is no footpath here) will be subject to flooding and could be at least 1 metre under water;
5. This site is adjacent to an SSSI and RAMSAR which form part of the protected Nene Washes which the RSPB require an advance notice of before a planning application is submitted. There are numerous protected species whose habitat will be destroyed by this development and has been in the recent past. There are adders, grass snakes and birds to name but a few;
6. The sequential test for development plan policy includes LP1, 11 and 14 which have not been met;
7. Whittlesey has already identified areas of land suitable for housing development to the east of the town which already exceed the Government target of 1,068 by 2031. Larkfleet, Taylor Wimpey, Snowley Park, Morley's Garage site and the Bricklayers Arms will provide in excess of 900 dwellings and other parcels of land have been identified within the Town itself albeit on a smaller scale;
8. The Planning Inspector refused the Appeal on the previous application due to the implementation of local plan numbers 1, 11 and 14.

Councillor Mrs Jolley requested, on behalf of the people of Whittlesey that this application be refused on the above grounds.

Members received a presentation in accordance with the local council participation procedure, from Councillor Boden, District Councillor. Councillor Boden stated that there are four relevant planning considerations, every planning application has to be considered on its own merits, regardless of any past applications there may have been. In this particular case we have an unusual situation, 8 months ago a Planning Inspectors report was published for a previous planning application which covered this site and a little bit more and some of the general comments made by the Inspector are instructive and could be taken into account by the committee. The first point is in relation to the video being shown to members taken on Drybread Road and the officer's report acknowledges that there is a problem here, particularly with parking at school times. This video was taken last Thursday which shows some of the issues, Thursday was a day when according to the Headteacher 85 vehicles were missing at the peak times as there were school outings on that day and from personal experience, in wet weather a lot more vehicles drop off and park to collect children. Traffic at that location is already a problem and will be a lot worse if this planning application were to be approved.

Councillor Boden stated that his second point is traffic on the B1040 the road from Whittlesey to Dog in a Doublet, at this site we have designated and major access for the 220 homes on this site. The B1040 is a very busy road and this development, if it goes ahead would make it that much busier particularly at peak times. That will not be a problem from a planning perspective except that it is planned to build a chicane system on the B1040 just 30 yards from this junction to allow a footpath to be built to access the development. This chicane would have a paralysing effect on traffic flow at peak hours. Traffic trying to access the development site coming from Whittlesey would be blocked by traffic queueing to enter Whittlesey and this would lead to the chicane becoming blocked within seconds.

Councillor Boden stated that his third point which relate to points made by Councillor Jolley is to do with housing numbers and on page 38 of the report it makes it clear in the officers report that the 2031 Local Plan target for Whittlesey is 1,000 new dwellings, 1,000 by 2031, 816 have already been approved and another 252 have already been validated excluding this development. 1,068 dwellings have been validated or approved already well in excess of the 2031 Local Plan Target. This development is not needed for the Local Plan target.

Councillor Boden stated that the fourth issue and the main one is to do with flooding, it is important to recognise that there are two different types of flooding which have to be taken into account. There is fluvial flooding from the river including the functional flood plain and then ground water flooding and the Environment Agent stress the risk of ground water flooding throughout this site and in the neighbouring properties, especially in Kingfisher Close where there is risk of flooding from surface water and happens on a regular basis, described by the EA as being a high risk area and is just yards from the Teal Road entrance to this site. Paragraph 18 of PPG 7 states that the sequential approach to risk based assessment is designed to ensure that areas of little or no risk of flooding of any source are developed in preference to areas at higher risk. The aim should be to keep development out of medium and high risk areas and other areas affected by sources of flooding where possible.

Councillor Boden reminded members to take into account both the fluvial flooding and surface water run-off and this application fails to do that. Fenland District Council have employed a consultant to examine this application, Peter Brett Associates and on page 79 of the report in the final paragraph at the bottom of that page is *'whether overland flow routes from the existing can be maintained to avoid additional risk to the existing development and creating potential risk to the new development. That this has not been considered and the JPP are failing to consider all flood risks as required by the National Planning Policy Guidelines.'*

Councillor Boden pointed out that the flooding risk is even more than this, the Planning Inspector in her report last November, on page 60, paragraph 22 says that her reason for her rejection of the previous appeal is quite a technical one, there are many reasons that were put forward but she didn't need to consider those as the flooding issue was sufficient, one particular part of the flooding issue was that the applicant had ignored the need to undertake a sequential test and gone straight to the exception test and that this process was fundamentally flawed in planning law. In this application the developer has done exactly the same, page 37 paragraphs 100-104, in paragraph 99 it says that new development should be planned to avoid increased vulnerability to the range of impacts provided by climate change, that inappropriate development in areas of risk of flooding should be avoided by directing development away from areas at highest risk, that planners should apply a sequential risk based approach to the location of development to avoid where possible flood risk to people and property and to manage any residual risk, taking into account the impacts of climate change, by applying the sequential test and if necessary by applying the exception test and in paragraph 101 the aim of the sequential test is to steer a new development to areas with the lowest probability of flooding.

Councillor Boden stated that development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas of a lower probability of flooding. A sequential approach should be used in areas known to be at risk from any form of flooding. On page 37 of the report reference is also made to Flood Zone and Flood Risk table and paragraph 67 of PPG 7 gives that table and those tables show clearly that in Flood Zone B essential infrastructure is covered and cannot take place unless it is subject to the sequential test and then subject to the exception test and then further test as well. The sequential test should also be applied first to guide development to Flood Zone 1, then 2, then 3. It must also reflect the need to avoid Flood Risk other than from rivers and in Flood Zone 3. Essential infrastructure that has to be there and has passed the exception test should be designed and constructed to remain operational and safe for users in time of flood. On page 79 of the report, the Consultant's report, Fenland District Council's consultant makes it quite clear that the development of the access road which is being discussed as a full planning application, the development of the access is in Flood Zone 3b and thus the sequential test needs to be applied.

Councillor Boden pointed out that the applicant seeks to use the exception test to claim that this infrastructure will be with the raised levels, it is clear from the Planning Policy Guidelines and from the Inspector's report that this is wrong in terms of process, the first thing that has to happen when there is any development in Flood Zone 3b is the sequential test has to be undertaken, if that sequential test is passed and there is no other place which is suitable for the development then you can move to the exception test to see if the exception test is satisfied and if it is as long as the exception test shows that the essential infrastructure is going to be safe you may then proceed with the development. The sequential test has not been carried out, the process not followed and that is what happened last time with this application when it went to appeal. There is no resilience to climate change in this application, the traffic problems on Drybread Road, the choking up of the B1040 chicane, surface water flooding of this land and the adjacent properties, this application fails for the same reason that the Planning Inspector threw out the appeal 8 months ago and Planning Policy LP11 on Whittlesey makes it quite clear that there needs to be particular regard to the north of Whittlesey to all issues of flood risk that exist here and LP14 makes it quite clear that development proposals should in these circumstances adopt a sequential approach to flood risk from all forms of flooding.

Councillor Boden summarised that the applicants themselves describe the access road approach to the B1040 as being essential infrastructure, this is in Flood Zone 3b, and the approach road to Teal Road is also in Flood Zone 3b. If there were an emergency and both roads were flooded, with emergency vehicles trying to access the site, at the same time as 220 houses trying to decamp through Otago Road.

PPG7 states that essential infrastructure in Flood Zone 3b requires a sequential test to show that there are no other development sites available and that an exception test is conducted to show that the essential infrastructure will remain operational for users in time of flood. Members have the evidence in front of them and Councillor Boden requested that members reject the application.

Councillor Owen asked Councillor Boden how often the B1040 floods on average. Councillor Boden responded that all the information is available, it floods not every single year but does flood most years and some years it is sufficient for it to be closed for long periods of time, in 2012/13 it was closed for 91 days, it does flood on a fairly regular basis, not every single year but when it does flood, the flood plain can be lost for some considerable time. He pointed out that it is designed to flood and that is its purpose, it is a designated flood plain area, so almost used as a reservoir to be able to protect other areas. Yes it does flood, not every year but frequently enough, on average floods one day out of every twelve, not every twelfth day but to add up the flooding periods over the course of the last few years it is about 1/12th of the number of days in the year.

Councillor Owen commented that Councillor Boden made reference to access by emergency vehicles in times of flooding and asked him what his concerns were. Councillor Boden responded that the Planning Policy guideline makes it quite clear that it is necessary that if you are in Flood Zone 3b that vehicles have to be able to get access to and from the area if evacuation is necessary. Planning Policy makes it quite clear that you don't need a great depth of water to have severe effect on both vehicles and pedestrians trying to get access to or from the site. In this case there is the junction with the B1040, within Flood Zone 3 which does flood and which would be severely constrained and wouldn't be passable if there was a severe flooding event. There is also the access to Teal Road which can only be accessed through Flood Zone 3, leaving only one access road which is the access road to Otago Road which would be available at the 5 AOD line. If emergency vehicles need to access the site and 220 households were trying to evacuate the area through that one access road, it is very narrow and would not work. Greatest concern is access for emergency vehicles at times of severe flooding. The Inspector in her report last November made it clear that in this particular case you have to take into account what exceptional flooding does and will occur and is likely to become more frequent due to climate change effects and according to both Policy Guidelines and also according to the Inspector and is an unusual case, there is river flooding, tidal and wave action at this point, all mentioned in the Inspectors report and the interaction with surface water drain off as well, a combination of things that will create a serious problem at some point in time. This will create a problem for the future.

Councillor Owen commented that Councillor Boden had mentioned that all of these instances of flooding were unlikely to occur all at the same time and commented that it was a real horror story being painted by Councillor Boden and asked him how often is this likely to happen and how often has it occurred in the past? Councillor Miscandlon responded that he did not think that Councillor Boden was in a position to work on the merits of God and when he is going to flood the area. Councillor Owen asked if historically this land had flooded before on the Flood Zone 3 land. Councillor Boden responded that from the 19th Century this whole land was subject to flooding on a regular basis, in 1947, in the last 10-15 years the area has flooded repeatedly, there is a lot of surface water and flooding takes place and the access road to the B1040 has been flooded continuously in Flood Zone 3b. Councillor Boden commented that the PPG actually says any development in PPG3 area should be sequentially and exception tested, it is a dangerous area and flood risk will increase if these 220 dwellings are built in this area.

Councillor Cornwell commented that the B1040 entrance to the site, which is a full application. Councillor Miscandlon clarified that the application for the B1040 entrance is outline planning application but for full engineering works.

Councillor Cornwell commented that members do not have the details for that but it appears that Councillor Boden has seen the plans and asked him if it is not possible that there is no answer to the engineering works on the B1040 to enable the entrance from the estate onto the B1040 so that it could lift above what would be Flood Zone 3 and would be Flood Zone 1 and then the engineering works would do away with the problems that have been identified by Councillor Boden. Councillor Boden responded that this is correct however that is not what is proposed here, there is no proposal to raise the level of the B1040 in this application but there is a proposal to raise the level of the access road getting to the B1040. The point at which the access road would reach the B1040 is still within Flood Zone 3b, if an application is to be made to try to solve the problem by raising the level then it is within Flood Zone 3b and the first thing that has to happen is that the application has to conduct the sequential test, then if they succeed, they must do the exception test to show the infrastructure would be safe within normal flooding time, so it is a three stage process to satisfy that it is an application which should be accepted. They would probably fail on two of the three steps, they have not undertaken these steps and it is undertaking these that is required under planning guidance and this was the sole reason for refusing the appeal previously, they should have undertaken the sequential test and have not done it and that is the reason Councillor Boden suggests members should be refusing the application.

Councillor Cornwell asked Councillor Boden if he would agree that the existing floodgate is in Flood Zone 3b which is a peculiar scenario when the area can be flooded including the area of the floodgate. Councillor Boden responded that the plans show that Councillor Cornwell is correct and explained that the floodgates in their current position do allow people to do a 3 point turn to allow them to turn around if they get that far. Flood Zone 3b does include where the floodgates are positioned now.

Councillor Miscandlon explained that Whittlesey Town Council would agree that these floodgates are in the wrong place. Councillor Mrs Mayor explained that there is consideration to move the floodgates as she could provide photographic evidence of when it was flooded past the flood gates.

Members received a presentation in accordance with the public participation procedure, from Mr Mawby, an objector to the proposal. Mr Mawby stated he was a neighbour of the site and a resident of Whittlesey for the last 62 years. Mr Mawby pointed out that the Planning Officer recommends approval on the grounds that there are 816 properties in strategic allocations granted and that this application for a further 220 houses will loosely fit the requirement for 1,000 in the Local Plan, however events have moved rapidly since the report was prepared over a month ago and there are now clear intentions for 629 properties in strategic allocations, not 500 as the report suggests. The figure of 500 in the report was an estimate and there are now firm figures of 629. These are Larkfleet 460 and Taylor Wimpey 169. An associated document states that dwellings already built in 2011 are excluded from the figure of 816 and this does not adhere to the Fenland Plan as properties granted after April 2011 and now built must be included and there is a further estimate for 121. The actual number of properties in strategic allocations, extant planning permissions and properties built since April 2011 is not 816, is actually 966, these figures are in Appendix C and every property is listed in detail. The actual figure is 966, we can analyse the application as 220 properties on land which is neither a Broad Location or a Strategic Allocation and if approved would cause the number of properties being built in Whittlesey to leap from 966 to 1,186, exceeding the expectations of the Fenland Local Plan by 20%, this is the reason that Whittlesey residents are asking for refusal, the town cannot cope with this overdevelopment. The dramatic overshoot of 186 properties in only the fourth year of the twenty year plan is a sound reason for refusal and one which would stand up to close scrutiny if an appeal was to be lodged. Overdevelopment of Whittlesey at this time cannot be justified, if refused on these grounds all other issues such as flooding, traffic and infrastructure would become irrelevant.

Mr Mawby requested that members cast their eyes over the updated development figures before making their final decision. Mr Mawby stated that if members refuse the application on the grounds of number it will give the people of Whittlesey and the overstretched Planning Department a respite from this issue by putting an end to endless applications. Mr Mawby asked the Chairman if he could pass the updated figures for members to consider. The Chairman confirmed that he could pass them to the committee clerk.

Members received a presentation in accordance with the public participation procedure, from Mr Wollaston, an objector to the proposal. Mr Wollaston stated that he would be making a short presentation on behalf of the Flood Warden Group who strongly objects to this application. Mr Wollaston made reference to Slide 1 which makes reference to the EA Flood Map for planning. He pointed out that this map is correct and is used by the EA to identify properties at the risk of flooding. He explained that the red-hatched broken line is the 5 metres AOD level and is a defining boundary between Flood Zone 3b and Flood Zone 1.

Mr Wollaston pointed out that the EA map shows the access from Teal Road and the proposed development being in Flood Zone 3b. Mr Wollaston asked members to consider slide 3 which shows reference to the submitted documentation and pointed out that there is conflicting information, with the 5 metres AOD hatched red line stops short of the access road from Teal Road, whereas in FRA the same line extends further so that the proposed access road onto Teal Road would be in Flood Zone 3b, this conflicting documentation with the agreed EA Flood map was highlighted in Fenland District Council's own flood consultants letter dated 3 June, Appendix D and he quoted that it is the stated intention that all residential development and private gardens will be outside of the 5.0metre AOD contour and as such will be located in Flood Zone 1.

Mr Wollaston stated that the documentation which he has reviewed does not contain a plan showing the indicative masterplan superimposed onto the agreed flood extent and this should be provided before any consent is granted to confirm the above. Mr Wollaston posed the question why has the developer's consultant used a document titled Plan of estimated extent of the flood zones when there is an agreed EA flood map available. If the developers consultant had used the EA Flood Map it would clearly show the access road onto Teal Road in Flood Zone 3b and as such a sequential test would apply. No consideration has been given to a flood storage area and no level for level flood compensation has been submitted to ensure that the flood risk would not be increased elsewhere. The submitted FRA is flawed. Showfield developers have already made an appeal and had it dismissed by the Planning Inspector last September for failing to apply the sequential approach. Without applying the sequential test the development would not be consistent within the national policy framework and would not fully accord to Fenland District Council Policy LP14. Mr Wollaston made reference to his Slide 2 in relation to the EA risk of flooding from surface water and no calculations have been made in relation to surface water run-off. Mr Wollaston asked Planning Committee members to recommend refusal of this application.

Members received a presentation in accordance with the public participation procedure, from Mr Nightingale, an objector to the proposal. Mr Nightingale stated that he was speaking on behalf of Showfields Action Group. Mr Nightingale stated that the officers report states that because the Council contested the appeal on the grounds of flooding alone it was considered that all other aspects of the development were acceptable and the Showfields Action Group do not believe this to be the case. In that respect of the Inspectors knowledge there are other important issues raised in respect of the proposed development of this site and it is right that all the relevant issues are considered by members of the Planning Committee in the determination of this application.

Mr Nightingale stated that the question of the footpath along the B1040 into town causes a very unnecessary road narrowing arrangement, this will cause problems later, it is being sold as a road traffic safety calming measure and in reality is an unsolvable problem. The access point will create a 'rat run' and it is suggested that the layout and speed restrictions will prevent a 'rat run' through the new estate. People generally look for the easiest, shortest route and the new housing road will be used as a new route to the school and to avoid the proposed road narrowing on East Delph. There is no dedicated cycle route from the site and therefore the scheme is not sustainable, the desired route for pedestrians and cyclists is proposed as Otago Road which is different to that for vehicular movements which Mr Nightingale explained.

Mr Nightingale stated that the Showfields Action Group believe that the desired route for pedestrians and cyclists would be along the B1040 to the already installed pedestrian crossing before the school junction and the natural route for vehicular movements from Teal Road would be to Swan Road then onto Bassenhally which is a much shorter distance, this was the only junction that was not considered in the traffic survey carried out as it highlights the significant problems encountered within and around the school vicinity. With regards to ecology, bats and crested newt migration what additional work has been done by Showfields to improve this issue. Increased light pollution will extend into the 30mph speed limit to accommodate the site entrance and additional light pollution from the development as a whole, this is known to disturb bat colonies and to create a negative ecological impact. The developer has misrepresented the facts by stating that the Planning Inspector supports the scheme to be outside the flood plain on that basis and she refused the scheme on the flood issue. We have clearly highlighted it is not clear cut and Fenland District Council have been advised that the Secretary of State request to call in this application should the planning department approve the application, in this case they should withhold issuing the decision notice.

Members received a presentation in accordance with the public participation procedure, from Rose, the applicant. Mr Rose introduced himself as the applicant for the proposal. Mr Rose stated that he was not fully anticipating what had been said by the other speakers and said that he would do his best to respond to the issues that had been raised. Mr Rose referred to the enquiry that took place in 2014 and stated that he believes there is a difference of opinion between him and Councillor Boden, with respect to the issue of sequential testing. Mr Rose commented that in his interpretation passed down by the Inspector was in relation to the housing element and not to other aspects as Councillor Boden suggested. To put the whole thing in context, one of the summation paragraphs of the Inspectors says *'The appeal scheme would offer a number of advantages for Whittlesey identified in the local plan and the proposal would make a useful contribution to housing delivery, in addition it would deliver a policy compliant scheme of affordable homes for which there is a considerable need. The development would also provide a large area of open space that would benefit existing residents as well as new occupiers and would address an acknowledged shortfall in the northern part of Whittlesey. The site is recognised as being in an accessible location where a number of trips could be undertaken by non-car modes'*.

Mr Rose stated that the issue as far as the Inspector was concerned was that of sequential testing confined to the houses being located in Flood Zone 3b not to the rest of the infrastructure as implied by Councillor Boden. In the context of the wider assessment of the regulatory bodies, the consensus that was established between all those regulatory bodies when it came to key issues of flood risk. The enquiry provoked discussion between Fenland District Council, the Internal Drainage Board and the Environment Agency resulting in a document called a 'Statement of Common Ground' of agreement of the situation as they saw it. Among the comments made in this document the EA has determined that the maximum level of storage that can be in the Washes before flooding large portions of Whittlesey and the surrounding Fens is 5metres AOD, he asked members not to think that the rest of Whittlesey will not be inspected if the water levels get to flood levels of 5metres AOD, large portions of the town would be affected and the surrounding Fens.



Mr Rose stated that the floor levels of the lowest houses would be set at 5.3metres AOD and that places them up higher than many homes in the town and the walls of the south Barrier Bank Embankment are to the West 5metres in height and to the east 5.3 metres in height which means that for water to reach the 5.3 metre level of the homes, 300mm water would have to be cascading over the embankment to the west and into Stanground, flooding large parts of Peterborough. Then when this has been taken into account members should look at the history of this site and the maximum level that the flooding has reached historically. Mr Rose commented that in his lifetime, the flood level in Whittlesey has not exceeded 4 metres AOD. In the floods of Easter 1998 it peaked at 3.94 metres and more recently in December and January 2012/2013 a level of 3.75 metres was achieved, therefore any reference to the area of housing and flood waters is inaccurate.

Mr Rose stated that he is not a flood expert and did not come prepared for a discussion on the flood issue, he was led to understand that based on a poster issued by the Showfield Action Group it was quoted that flooding is no longer a major concern. The point to take away in terms of flooding is the Showfield site is going to be vulnerable at levels over 5.3metres AOD but in that event so will large parts of the rest of the town and also into Peterborough. In context of issues on transportation Mr Rose stated that Mr Nigel Weeks will respond to those questions.

Mr Rose stated that much has been made of the existing problem that relates to congestion around the Alderman Jacobs School and from a pragmatic point of view Mr Rose believes that the location of the Showfield site will create less of a problem for the Alderman Jacobs than any alternate site in Whittlesey, on the basis of its proximity, if there is a problem people will adopt the position that it is easier to take children to school on foot rather than in the car. At this point the real positives with this development can be summarised as: Site layout housing development broken down into three clusters subdivided with hedgerows which are a nice green backdrop for the birdlife, and other animals and flora and fauna can thrive, and the whole area is bounded by extensive areas of public open space and a good environment in which to live and raise a family.

Councillor Cornwell asked Mr Rose if as far as his outline is concerned and taking account was he saying that every plot within the outline proposal is above 5 metres, not just the building on each plot, but each plot, including gardens as the problem with properties at risk of flooding is when a garden starts to flood but does not reach their property people panic, so does each plot sit above 5 metres AOD. Mr Rose responded that the requirement that he has is for the gardens at or above 5 metres AOD and for the minimum slab level of the houses to be 5.3 metres AOD. Councillor Cornwell clarified that every plot is actually 5 metres and above. Mr Rose responded that yes it is.

Councillor Owen asked Mr Rose if some of the properties were being built up in order for them to be above 5 metres. Mr Rose responded that the issue for Showfields is that in the last application that had been the approach and had applied for 249 houses which created a problem as it was deemed to be not a preferred solution in terms of planning, if there was the availability for houses to be built at or above the 5 metres level then they should all take precedent over any plans to build houses on the basis of building them through the technique proposed previously. Councillor Owen asked Mr Rose to clarify that all the houses would be built at or above 5 metres. Mr Rose responded no that they have passed this past the IDB and the EA and that is the position that they have adopted.

Councillor Sutton asked Mr Rose if the document that he has saying that the flood issues are no longer an issue could members have sight of that document, clarifying that he was referring to the Poster displayed by the Showfield Action Group which said that flooding was no longer an issue. Mr Rose responded that the poster could be circulated to members and was passed around to members of the Planning Committee. Councillor Sutton asked Mr Rose if this poster was displayed in the town. Mr Rose responded that it was placed on the website of the Showfield Action Group.

Councillor Cornwell asked Mr Rose or as a question for his highway expert, the B1040 is it Mr Rose's intention to lift that part of the B1040 and the entrance to the estate to at least 5 metres AOD. Mr Rose confirmed that it was not and the person who could answer this question would be his transport consultant.

Members received a presentation in accordance with the public participation procedure, from Mr Patmore the Agent. Mr Patmore stated that he is the Ecologist for the project and he had observed that there are no specific issues that had been raised that he was not aware of and provided members with an update of the key issues. The RSPB and Natural England have raised no concerns and from the Ecology assessment the comments are very similar. The issues regarding the reptiles and the bats and protected species issues have been dealt with in detail in the Ecological Assessment, this has identified what is on site, what potentially could be on site and the potential risks of those species on site and made general recommendations for mitigation which would ensure no harm to legally protected species. The mitigation is usual standard practice and would be firmed up within the Construction Management Plan or a Mitigation Plan which would then identify how these species would be protected as the development moves forward. Within the Ecological information submitted all those issues have been clarified.

Mr Patmore confirmed that the Ecological impacts and legal issues have been dealt with and biodiversity within the plan is the enhancement and development of habitats on site. The scheme drawing shows a big area of public open space which will have biodiversity enhancements, with retention of existing hedgerows and enrichment planting and also the retention of the northern boundary, so the ecological view is that the habitat corridor is a significant feature that runs across the top of the northern boundary which would be retained and protected, with a tree feature that would potentially retain bat habitats and will also provide habitats for other species, birds and reptiles. Control mitigation to ensure no light falls on those features and will have appropriate planting and retention as the development comes forward.

Members received a presentation in accordance with the public participation procedure, from Mr Weeks the Agent. Mr Weeks stated that he was the Highways Consultant and stated that he would respond to some of the issues raised by the previous speakers. There were three principles raised, the East Delph Access, the build on East Delph and the impact on the school. Mr Weeks stated that the issue of cars parked outside the school is in common with other schools around the country this is not just a Whittlesey problem, looking at the film shown it does not look as bad as he had been led to believe, showing a considerable number of cars parked on Drybread Road but he did not see the side roads totally blocked or impassable. There were low levels of background traffic which were able to proceed through. From the developers point of view it is not their job to solve what is an existing problem and the impact of the site would be very useful as pupils would be within walking distance of the school and from his experience of surveys of primary schools the majority of pupils do walk not drive. The exit out of Plover Road is a little distance from the school so there is a small amount of traffic that will have to travel past that section which is exceptionally low and if there is a problem it is a role for the school and the County Council to address through the school travel plan and if this development is approved one of the S106 Contributions will be a contribution to the school towards their future travel plan.

Mr Weeks explained that In terms of buildout it is a standard engineering technique, has been passed by the Highway Authority and their own road safety engineers have looked and are happy with it and in terms of the amount of congestion it will cause with traffic lights is not a situation that Mr Weeks perceives will happen. In terms of the access, currently it is not the proposal to raise the main road, it will be the proposal to raise the access road into the site, the detail has to be subject to a Section 278 legal agreement with the County Council, they have to approve all the detail of design and this is past the planning process so that details changes/amendments requirements can be addressed at that stage.

Mr Weeks stated that in terms of the flooding issue we all know the East Delph road floods and this is a matter of fact, it is important to stress that when the main road floods it doesn't follow that the access road floods. There was a flooding report prepared by the expert which shows that even in the worst situations this road would flood just below 150mm and that is why there is a proposal to raise the access road. Whereas East Delph may close it does not mean that the access road will follow, with the raised levels it would be an exceedingly rare event for the access road to close. Mr Weeks said that he could not comment on the impact of traffic on Teal Road as he has not had anyone mention that this road floods. Mr Weeks summarised that the highway authority has not objected to the scheme and this Council did not pursue a highways refusal at the last enquiry.

Councillor Hoy questioned Mr Weeks statement about cars at the school, pointing out that he had made some very specific statement of fact which she questioned. She commented to Mr Weeks that he was right in some ways it is not just a Whittlesey problem and Wisbech where she represents is also a very big problem but in Wisbech the primary schools all have a one mile catchment area and are still chock-a-block with cars and this seems to be over a mile so what evidence does he have that people will walk as he had made the statement that people don't drive to primary schools, which was a bold statement but what evidence is there to back that up. Mr Weeks responded and apologised as he thought he had said that the majority of people walked to primary schools. He responded that he had not done a survey and does not have information for the Whittlesey school but there is a pressure on primary schools nationally and he has been involved in a number of primary school extension projects, some in Peterborough, all those schools that have been surveyed all the most popular mode is walk. What he is saying is that primary schools even with slightly extended catchment the majority walk, given that this development is close to the school there is no reason to assume that a majority of pupils will not walk to school.

Councillor Cornwell asked Mr Weeks at the moment the plan for the development shows two ways in and out, if there was only a pedestrian route from the development into Drybread Road would that impact on the number of vehicles from the estate likely to be used to take children to school by going through what would then be the only access via East Delph. Mr Weeks responded that in terms of going to the school if there was only one access as far as the school is concerned it is a round the houses route then in those terms there would be more propensity to walk, and if Councillor Cornwell was asking if this is the desirable situation in overall transport terms Mr Weeks would not support it. He agreed that there are some circumstances where it is not practical for pupils to walk to school.

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

- Councillor Hay asked if a point on page 69 of the report could be clarified, Whittlesey Showfield had been removed as a future development site from the Fenland District Council Local Plan which was adopted in May 2014, is that the case. Officers clarified that in the old Local Plan of 1993 this site was part of the housing allocation and since the Local Plan was adopted in 2014 it has been removed;
- Councillor Mrs Newell commented that there was no mention of the archaeological importance of this site, this is a high area and it is important to her. The Chairman clarified that on page 42 of the report Archaeology is set out.

The Chairman at this point brought forward the Highways Officers and Flooding Officer to take questions from members.

Ms L Mason-Walsh introduced herself to members as the Principal Transport Officer for Cambridgeshire County Council:

- Councillor Cornwell asked Ms Mason-Walsh if the current idea is to engineer the entrance to the estate with the intention of making sure that it is always open and is not affected by any water on the Wash. Ms Mason-Walsh responded the intention is to minimise the impact of the road by flooding and to that end the developer had assessed what the impact of the scheme would be if all traffic had to move to Teal Road because East Delph were flooded. Councillor Cornwell pointed out that this did not entirely address his question, is that particular entrance to the estate going to be engineered so that it is always open to allow access to the estate regardless of the circumstances, ignoring Teal Road in his question. Ms Mason-Walsh responded that the applicant has redrawn the design of the junction in response to Highway comments and the exact details are to be agreed, yes the intention is that it will be at a level that is above the highest recorded flood level in that area, the intention is that the access will be open, the problem being that the road itself East Delph might be flooded. Councillor Cornwell commented further that he was referring to the junction including the access road to the estate and that part of East Delph leading from the town to that junction all part of his question, that would enable exit and egress from the estate regardless of the water situation of the Wash, as if the principle was adopted then the estate is always accessible and it would get over some of the problems that have been pointed out. The Chairman asked Councillor Cornwell to specify what the actual question was or was it a statement. Councillor Cornwell clarified that it was a question, because members haven't seen any plan which lays out the current proposal for access at East Delph, because this a full application and he would have liked more information. Is the engineering proposal going to ensure that access to the estate is permanently open? Ms Mason-Walsh responded that the revised junction design which was circulated and consulted on is why the application was deferred from last month's committee to today set out the details that are proposed at the moment and we have guidelines as to the level that the road must be in terms of flooding and this design as it stands at the moment meets those requirements;
- Councillor Connor asked Ms Mason-Walsh if she would give the committee an undertaking that the road through Whittlesey to East Delph to the Dog in a Doublet to the proposed site will be kept above flooding 5.3 metres. Ms Mason-Walsh responded that it was not part of this application and is not required;
- Councillor Mrs Mayor commented that she is the other ward Councillor for this particular site and was very concerned about this extra piece of footpath that is intended to be put in on East Delph, this will narrow the B1040 and will cause a bottleneck, there are other areas of traffic calming in Whittlesey not yet instigated, she asked the question before, have Highways taken the other plans for Whittlesey and for traffic calming measures for other areas of Whittlesey into consideration when they have taken on board this actual footpath extension. Ms Mason-Walsh responded that the scheme as proposed by the developer has been through the Stage 1 Safety Audit and that has not raised any major issues, however before the scheme would be implemented it is subject to a Stage 2 Safety Audit and a full Section 278 technical approval process, it is probable that there will be changes to what actually gets built from what is shown on the drawing that was circulated;
- Councillor Sutton asked Ms Mason-Walsh if members could be satisfied that once the proposed footpath is put in, what is left for two way traffic is sufficient in terms of two way traffic. Ms Mason-Walsh confirmed there would be;
- Councillor Mrs Mayor commented on access to this development, you have the B1040 East Delph Road and Teal Road, mention has been made about the Otago Road and that only being a pedestrian and a cycle access, there is a pedestrian access there can members be guaranteed that that will remain a pedestrian access and not a vehicular access. Ms Mason-Walsh confirmed yes as Otago Road is not suitable to take extra traffic and the width of the road;

- Councillor Murphy commented that some of the things in the report are very vague, this is an outline planning permission, which he hates as once planning permission is approved the applicant can almost do what they like. It says 55 affordable dwellings subject to viability, so are we going to get 55 or 10 we don't know. The Chairman reminded Councillor Murphy that questions were for Highways and Councillor Murphy agreed to make his comments at a later stage.

Mr Paul Jenkins introduced himself as a Partner at Peter Brett Associates and specialises in flood risk management and policy and technical terms and represented the Council at the appeal on the site last September:

- Councillor Mrs Mayor asked Mr Jenkins to explain what will happen to the existing properties if these new properties are built at 5.3, either when the area is flooded or when we have torrential downpours. Mr Jenkins advised that he was neither for nor against the development and would answer on that basis. Mr Jenkins responded that the estimation of 1:1000 year risk for this site, in planning policy that is taken as little or no risk of fluvial flooding, in terms of a fluvial flood event outside of that 5 metre contour would mean that they are not having any impact on the extent of fluvial flooding anywhere else because they are not in that flood plain. Surface water flooding is a different matter and goes back to the sequential approach, they are separate processes, the sequential test is the process of identifying the suitability of the use with the site, taking the EA flood maps and if in white or blue area will show whether a sequential test is required. Having established which area your site is in, white is not at risk of fluvial flooding, and there is still a requirement to undertake a sequential approach against other forms of flooding. In this location that is surface water flood risk and part of his letter states that the applicant and their consultants have done a plausible technical job of looking at the drainage of the site itself and how that drains into the Washes through a system which the IDB would take on and operate. What hasn't been undertaken as yet is an assessment of what happens to the flow that comes off the existing development and how that goes through the new development and finds its own way through the Washes. Mr Jenkins pointed out that in making that comment he is aware that this is an outline application and some of those matters can be delivered by means of a planning condition and looking at the EA conditions, they have two, the second one setting out the requirement to assess in detail applying the sequential approach and in doing so would say that if there is a corridor that takes the existing surface water from the existing development down to the Washes you would then need to avoid that area in setting out the master plan. Mr Jenkins pointed out that he had not seen the evidence to say whether this was an issue or not, it is an issue that has not been assessed in detail and that detail needs to be assessed as part of the discharge of conditions and the master plan has to respond to it. This is an indicative layout of 220 houses and could be arranged in any way. Councillor Mrs Mayor commented that the applicant has said that the properties will be built at 5.3 and her concern is that these will be a castle and the existing properties will be the moat and they will get the water. Councillor Mrs Mayor pointed out that this happens in other parts of Whittlesey and in her garden, her property is one of those in the moat. Mr Jenkins responded that they may be a castle but they will be outside of the flood plain so that they are not in a position to be pushing water anywhere else as they are not in the water to start with. Councillor Mrs Mayor commented that they are being built to that height to prevent them from flooding;
- Councillor Owen commented that he had asked Mr Rose about flooding and he said nothing would be affected. He commented that he had received the report, he understands the Inspectors report that there is no likelihood of surface and fluvial flooding, if there is no likelihood of surface water flooding as stated by the Inspector and the Flood experts, what is the concern if these things are not going to happen.

Mr Jenkins responded that the decision that the Inspector came to was based around a couple of key themes, in the previous application that was considered at the appeal, it was slightly different in that there was an element of encroachment into the flood plain and that was considered to be contrary to the sequential test and contrary to local and national policy and that is a correct interpretation, so in respect to housing specifically what this application has done has reversed that position which says they will only build on the bit outside the flood plain and therefore that sequential test as far as the housing concern is not engaged and therefore you do not have to consider it in decision making terms. The issue relating to surface water is that there are two issues, one being is there sufficient detail in the surface water drainage scheme for the proposed development to satisfy the Council that the scheme could be delivered that would not increase risk to other people and second what impact would this development have on the ability of existing development to drain, that is a matter of detail which needs to be assessed as it comes into this bracket to consider all sources of flooding. The other contention on this site is the sequential testing for the access road between the B1040 and the site, the development has been disaggregated into three parts, housing, public open space and then the access road, the issues for essential infrastructure are complicated in this regard, the whole basis of the sequential test being the termination of lower risk alternatives. Whilst in principle the test is applied in relation to lower risk alternatives the end becomes that it is the sequentially appropriate site because there is no rational alternative location. The impact is that the applicant has come up with a scheme for flood plain compensation to make amends for the lost flood storage for putting a road there and has agreed that with the EA, so in terms of overall risk it won't increase risk to anyone else but there is a moot point around essential infrastructure;

- Councillor Owen commented that if issues have been addressed and the only one left is access he could not see that there is a problem as all other issues have been swept aside;
- Councillor Cornwell commented that he was not concerned with fluvial water, he raised concerns regarding the mention of lagoons in relation to the siting of residential properties and children are not always compatible and asked where the lagoons would be sited, in the Washland or on the high land and asked to be advised on this. He commented that if they are anywhere near houses and children then he wants to see severe protection measures in place. Officers responded that specifically linked into the plan, the detailed drainage for the site would be secured by condition and would not be shown on the plan. Councillor Cornwell pointed out that the Drainage Board are happy with the proposals so something must have been put to them to make them happy with the proposals. If they are anywhere near these houses, he thought they were shown in the middle but is difficult to see from the plans provided. Councillor Cornwell stated that it appears that at least two of them are within the houses and protection measures must be written into the conditions very strongly. Mr Jenkins responded that the drainage scheme that is set out would be broadly similar to the one set out for the scheme set out at the appeal and there would be 2-3 balancing ponds within the development, they would be set above the 5 metre contour as they need to be that high to get the gravity to drain it out, they do propose a potential risk to safety, however they are within the design guidelines for these schemes, developed with safety in mind. Councillor Cornwell commented that safety conditions will be taken into account so that members are happy that people are as well protected as they can be;
- Councillor Sutton asked for confirmation regarding sequential and exception tests and where they are applicable, it appears that officers say this only applies to housing and this appears to be backed up by the Inspector last year, there is implication over the table that it also applies to infrastructure. Mr Jenkins responded that his view is that the sequential test is for any development in the flood plain and pointed out that the issue members need to consider is whether the end is served, if you have a situation where there is a thing that needs to be tested but there is no rational alternative of a location to put it there, doing a sequential test of every other site in the district where you could put that road serves no purpose, the end of the test is satisfied even though the means and that is a balance for members to decide.

Members took a 10 minute refreshment break during determination of this application. They were advised by the Chairman that they should not discuss details of this application during the break period.

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

- Councillor Sutton commented that Councillor Mrs Hay had asked a question about the site being taken out of the 1993 plan and asked officers to update members as to the position at this time. Officers responded that under the Local Plan Policy the majority of residential development will take place within the broad locations for growth but it does not preclude other sites at a smaller level coming forward for consideration when set against other planning policies within the Local Plan such as this particular site. It could be any site with one dwelling upwards will fall under the other policy. The idea with the revised Local Plan was not to have every single site allocated as a specific development site. Other sites come forward but need to be judged against other policies within the Local Plan;
- Councillor Murphy commented that some of the content of the report is vague and they are always so when related to Outline applications and he does not like outline planning applications because a lot of things can change when it comes to a full or reserved matters application. Councillor Murphy asked what an attenuation lagoon is. It says 55 affordable dwellings for this planning application, subject to viability, that sounds good but when you get to full planning permission which may mean a reduction in number i.e.10, 12 or 15. It also says 'would' expect an affordable housing mix and the Council intends to seek 106 planning contributions, what is intended, will we get them or not. If you go through all the permissions there has been 9 refusals over the past years and the latest being in November 2014 and there is nothing much different with this application to that one. It states that if the Secretary of State would wish to consider the application, it doesn't say the Secretary of State is going to take it in, it says if would wish to, Councillor Murphy said this is wishy washy to him but it has no need to go back to the Secretary of State. Councillor Murphy pointed out that there was a discussion about two months ago where it says members only gave one reason which was flooding, when there are other reasons as well, once the one reason has been overcome they forget every other reason. The reason for this is because of finance, but once this reason has been overcome, the other reasons are then forgotten, we cannot bring them back again. Councillor Murphy commented that this is an outline planning permission, and members need to decide if they want it, or not, outline means everything could be changed or stop it now and wait for the full application to come in;
- The Legal Officer clarified that if members were mindful to refuse the application the reasons must be clear. Councillor Murphy commented that he had not said he was going to refuse the application. The Legal Officer pointed out that the Planning Practice Guidance is very clear that failure to produce evidence to substantiate each reason on appeal would give rise to an application for a cost against the Council. S106 mix is only if shared ownership or rented, the Council's normal position is it is done on a 70:30 split and would take advice from the Housing Officer as to what is required in Whittlesey. Viability has been introduced by the Government Planning Act, Section 106ba, an application for viability can be made and we are duty bound to consider it, reasons for refusal should be material planning considerations, nine have been refused before but it does not follow that this application should be refused and the referral to the Secretary of State is something the Council is statutorily required to do. The Chairman confirmed that the answer for the attenuation lagoon would be provided. Mr Jenkins responded that an attenuation is also known as bouncing bombs, at the moment the site is greenfield and this is what is expected from a greenfield site, once you have houses you increase the rate of run-off so you provide a pond or lagoon to store that water for a period of time and then release it at a rate expected from a greenfield site;

- Councillor Mrs Mayor commented that she is the other ward member for the Bassenhally Ward in Whittlesey and she would support the residents and Whittlesey in their strong objections to refuse this application. Whittlesey Town Council are unanimously recommending refusal and responded to Fenland District Council at its meeting on 25 March 2015. Councillor Mrs Mayor stated that she did not take part in any of the discussions of vote on the application. Councillor Mrs Mayor commented that Mr Patmore, the Ecology expert mentioned there are no concerns about ecology on the site and the developer will enhance the habitat, before any planning application was received by the Council there was devastation done to the land and its animals and birds and hedgerows. No land management has been carried out for 30 years, Councillor Mrs Mayor stated that she had bought a property in Whiteacres on Otago Road in the 1980s when first built, no land management has been carried out on this site until they wanted to put in a planning application. She understands that this developer purchased the land in the 1960s with the intention to build and asked why this has not happened, this may be because the number of conditions for any application for this site would put some developers off. Councillor Mrs Mayor commented that Mr Weeks from Highways mentioned all schools have problems with parking, Councillor Mrs Mayor agreed that they do but asked why impact on an existing problem and make it worse by developing this site and having an access with 220 cars, possibly 440 cars, there are so many things stacking up against this application that she could not support it;
- Councillor Bucknor referred to the Site plan drawing, on top right hand corner asked if that is what is referred to as a SUD (Sustainable Urban Drainage). Officers confirmed that the area referred to is the playing fields/Public Open Space. Councillor Bucknor says the legend makes mention of a SUD. The Chairman confirmed that from the pack it confirms that the area referred to is playing field;
- Councillor Sutton commented that he takes note of Councillor Murphy's comment regarding Outline Planning application and **should members decide to support the application he would request that the full application returns to committee so that any problems that may arise can be addressed. Officers confirmed that this comment had been noted and would be taken into account;**
- Mr Mawby raised a point of order that his handout showing the number of properties in strategic allocations/extant planning permissions for Whittlesey granted from April 2011 had not been circulated to members. The Chairman explained what the document was and requested that they be handed out and gave members time to read for their information. Officers clarified that the figures within the Local Plan are a target and not necessarily a minimum target. Councillors Mrs Mayor advised the Chairman that there is another 34 properties missed off the handout, to the rear of 148 Stonald Road, Whittlesey.

It was proposed by Councillor Owen, seconded by Councillor Cornwell that the application be Granted, which was not supported by a majority on vote by members.

Members vote recorded as: 3 in support of the recommendation, 7 against the recommendation, 2 abstentions.

It was proposed by Councillor Hay, seconded by Councillor Mrs Mayor that the application be refused. The Chairman requested reasons for refusal of the application:

1. Grave concerns that the B1040 affecting the access making one entrance and exit from the estate and difficult for emergency vehicles to gain access;
2. It is outside the Town Plan;
3. 1,000 houses are in the plan up to 2031, 4 years into a 16 year plan and this target has already been reached and members would like to see the ones approved built to see how it will affect the schools;



Officers advised members that there is no minimum target in Whittlesey or any other town in the District, applications are subject to planning policies, to refuse on housing numbers would not be defensible at appeal, would not succeed and there would be strong likelihood of costs against the Council. In terms of it being outside the town plan, there are broad locations for growth, which identify where majority of residential development would go, other sites of this nature do comply with policy and in terms of making contributions growth in the district, and the last two points would be questionable as valid reasons for refusal. The Highway officers advised members regarding the first reason given for refusal. Councillor Hay was asked by the Highway Officer to repeat the first reason given for refusal. Councillor Hay confirmed the reason as: When the B1040 is closed it will cut down access onto that estate to only one access which would make it difficult for emergency vehicles. The Highway Officer responded that it is below the maximum that can be on access, they are proposing to design the junction to minimise the amount of time that that junction is closed. She advised that for all the reasons given for refusal this reason is not one that Highways would be able to support.

Councillor Bligh asked if it is possible to **approve outline planning permission and then for it to be discussed when it comes back to committee, approve today in outline on the basis that it comes back before the committee.** Officers advised that what members were being asked to consider today was the principle of development and it would come back again as a reserved matters application. Officers assured Councillor Bligh that the application would definitely come back to committee.

Councillor Mrs Mayor drew members attention to another highways issue that members have in Whittlesey, gave example of a fatal accident on the A47 on Monday of this week at Guyhirn, Whittlesey became gridlocked on B1040 head to tail all the way from A605, there are major issues onto the highways and to put this exit onto that highway will only exacerbate problems, it was closed from 6.00am in the morning until 3.00pm in the afternoon.

Councillor Sutton commented that if members go along with the proposal of objection on the B1040 is the County Council going to defend that decision. Highways officers responded that they have made the applicant jump through every loop possible, they have done all the tests, a robust assessment, they have done everything Highways have asked and as a result of that there are no highway objections to this development. They confirmed that if refused on a Highway reason they would not be able to defend the Council's decision.

Councillor Owen asked that in view of the lack of evidence for planning reasons to refuse this application can members go back to the original proposal. The Chairman responded no, not until the current proposal had been voted on, reminding members that reasons needed to be confirmed prior to this.

Councillor Cornwell pointed out to the Chairman that a member of the public had passed a note to a member of the committee during the proceedings and commented that this was not allowed. Councillor Mrs Mayor confirmed that it was a fellow Councillor who had passed her the note.

Councillor Mrs Newell commented that there was not enough information in this paperwork for members to make a sensible decision, stating that she did not know about lagoons and their safety, there was no mention of how dangerous that can be and she was not happy with the explanations contained in the paperwork. Officers reminded members that the level of detail would come back to committee as part of the reserved matters application and then members would be able to determine that level of detail at that point. Councillor Mrs Newell pointed out that she had received a lot of planning training she had been informed that members make their decisions at outline, as once decisions are made at outline you cannot change them. Officers confirmed that members would have the opportunity to refuse the reserved matters if they wished and were not satisfied with the detail.

The Chairman reminded members that there had been a proposal by Councillor Hay, seconded by Councillor Mrs Mayor to refuse this application, the grounds for refusal were 3, with a reminder from officers that they were:

1. Concerns about the B1040;
2. Outside the built up form of the town, no longer in the FDC Town Plan.
3. 1,000 houses are in the plan up to 2031, 4 years into a 16 year plan and this target has already been reached and members would like to see the ones approved built to see how it will affect the schools. Officers clarified that the old 1993 Local Plan no longer exists and a different set of policies were developed and were adopted in May 2014 and it is those policies that members should be addressing, making a decision on those policies, the main allocations for growth would take the majority of housing in the district, with a further layer of acceptability which would be for smaller sites under 249 dwellings, this one is an example. As long as it meets other criteria within the policies within the plan that would be acceptable, so there is not a blanket refusal for sites of less than 249 dwellings. Cannot consider it using the 1993 plan, members were advised that they must use the 2014 Local Plan as the key driver for the decisions members need to make. Councillor Hay asked about the ability of the schools in that area to cope. Officers advised that this was a different reason, as part of the consultation process the education authority was consulted and the S106 covers contributions for education so this would have been assessed by them and be part of the S106.

The Chairman reminded Councillor Hay that there are no substantive planning reasons for refusal and asked if the seconder had any further reasons to add. Officers advised that it must be a reason that is defensible at appeal, if we do not have that, the Council would lose the appeal and almost certainly incur costs against the Council. It was one reason for refusal which was flooding and that reason has been overcome.

Councillor Mrs Mayor commented that looking at the Inspectors report from the last application shows the reason for refusal to be exactly the same. Officers advised that the reason has to be more specific. Councillor Mrs Mayor said she would refuse it on the same grounds as last time. Officers advised that the allocation has changed from the previous decision where there was housing within Flood Zone 3, that has been overcome so there is a different proposal in front of members.

Councillor Mrs Newell asked if surface water drainage could be a reason for refusal. Officers advised that flood risk had been considered and in terms of surface water drainage and it would be dealt with by planning condition.

The Legal Officer clarified that point 30 of the Inspectors decision clearly states that she determined that there would be no significant risk from surface water flooding, so if members were mindful to refuse the application on those grounds, the decision would put the Council at risk.

Councillor Connor raised a point of clarification and asked if the viability issue of 55 houses would come back to the committee. The Chairman confirmed that yes it would come back to committee within the context of reserved matters. Officers confirmed that what is offered is 25% affordable housing and would not stop a viability test coming forward.

Councillor Mrs Mayor asked if a sequential test had been carried out on this site as the Inspector had said that it was a necessary requirement.

The Legal officer directed members to page 60 of the decision and point 21, quoting '*The main difference between the parties is whether the failure to undertake a sequential test is fundamental to the acceptability of the appeal scheme in terms of flood risk. The Action Group and the Council both consider that the sequential test should be applied to all land that is within Zone 3b prior to mitigation. There was a slight difference in approach because the Action Group believed that the site as a whole should be tested whereas the Council considered it should just be the proposed area for housing*'. She makes a very clear view by saying 'I am inclined towards the Council's view'. The Legal officer reminded members that the applicant has amended his application to ensure all housing is outside of Flood Zone 3b.

The Chairman took advice from the Legal officer who advised that members were still required to take a vote on the proposal made by Councillor Hay, seconded by Councillor Mrs Mayor to refuse the application. The Legal officer advised that Councillor Hay could withdraw the proposal to refuse if she wished to do so but she can still have it tabled. Councillor Hay responded that she would like it tabled in view of the fact that she had been advised that the reasons given would not give the Council 'a leg to stand on' and for those reasons withdrew the proposal to refuse the application. The Chairman confirmed with Councillor Hay that she wished to withdraw the proposal, which she confirmed.

Councillor Bligh commented that due to the fact that the proposal from Councillor Hay had no basis to it and the Council would suffer as a result, this had changed her opinion and as long as the application was **returned to committee at the Reserved Matters stage** this would change her vote on the outline.

Proposed by Councillor Owen to go with officers recommendation approval for outline permission, seconded by Councillor Cornwell and decided that:

**Delegated authority to the Head of Planning in discussion with the Chairman, Vice-Chairman and Ward Members to grant subject to:**

- i) The agreement and completion of a Section 106 obligation relating to affordable housing, open space, education, library provision, rail enhancement, transport, waste and drainage;**
- ii) Conditions as listed;**
- iii) Referral to the Secretary of State if required**

**or**

**Delegated authority to refuse in the event that the applicant is unwilling to enter into the Section 106 obligation within a period of 4 months.**

Members vote recorded as: 8 in support of the recommendation, 2 against the recommendation, 2 abstained from voting. Councillor Mrs Mayor requested that her vote against the recommendation be recorded.

(Councillors Mrs Laws, Miscandlon and Mrs Mayor stated that they are Members of Whittlesey Town Council, are not on the Planning Committee and take no part in planning matters)

(Councillors Mrs Mayor and Miscandlon declared a Non-Pecuniary Interest in this application, by virtue of their attendance at a Planning meeting at Whittlesey Town Council on 25 March 2015, she did not take part in the discussion or vote, was only there to observe and listen)

(Councillor Mrs Laws declared a Non-Pecuniary Interest in this application, and retired from the meeting for the duration of the discussion and voting thereon)

(All Members present registered, in accordance with Paragraph 2 of the Code of Conduct on Planning Matters, that they had been lobbied on this application by the applicant and objectors)

(Councillor Miss Hoy declared a Non-Pecuniary Interest in this application, by virtue of being lobbied on this issue and also being aware of this application through the Conduct process, however the application's merits or otherwise were not discussed in this process)

(Councillor Bucknor declared a Non-Pecuniary Interest in this application, by virtue of him being a Wisbech Flood Warden)

**P22/15**

**F/YR15/0143/F**

**WHITTLESEY - LAND NORTH AND WEST OF MOORHEN ROAD  
CHANGE OF USE FROM AGRICULTURAL TO PUBLIC AMENITY SPACE (NO  
OPERATIONAL DEVELOPMENT)**

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 considered 22 letters/emails of representation and objections.

Officers informed members that:

- One further email of objection received reiterating the points previously captured in the officer report with the exception of the suggestion that the land is designated as green belt. In response to this the Council does not have any designated green belt land.

Members received a presentation, in accordance with the local council participation procedure, from Councillor Mrs Jolley, Whittlesey Town Council. Councillor Mrs Jolley stated that the application for a Country Park to the North of Whittlesey was recommended for refusal by Whittlesey Town Council and as a Town Council they had concerns over the following issues:

1. Whittlesey already have Nature Reserves, Country Parks and Wildlife Parks in the town and surrounding areas, which are well supported by the public;
2. There is extant planning permission for a new Country Park on Eastrea Road, which has funding in place for the next ten years by which time it is expected to be self-funding. It already has its own committee and officers in place;
3. There does not appear to be any such provision in this application;
4. Has any S106 agreement been put forward to show exactly who will be financially responsible for the maintenance and upkeep of this land;
5. Parks and play equipment need to be maintained in good order for in excess of ten years. Can the applicant guarantee that this money would be both available and ring fenced to provide for this need;
6. Other Whittlesey organisations have been approached about managing and maintaining this site and refused to take this project on due to the ongoing costs of both maintenance and public liability insurance;
7. Fenland District Council do not appear to want to increase budget expenditure, they are looking to make budget savings where possible;
8. Much of the land to the North of Whittlesey is regularly in use by dog walkers, horse riders, walking groups and bird watchers and as such is classed as common land;

9. This plot of land is also to the North of Whittlesey and is therefore outside of the core plan of permitted development.

Councillor Mrs Jolley urged members to reject this application on the grounds of sustainability.

Members received a presentation, in accordance with the public participation procedure, from Mr Rose, the applicant and Mr Patmore the Ecologist. Mr Rose stated that he had been prompted to dedicate this land to benefit the people of Whittlesey as he could see from his attendance at the public enquiry last year that people really cherish the land and he had come up with this solution. Mr Rose stated that the land would largely be undisturbed apart from mowing the pathways, it is an area of natural growth and it is his plan to underwrite a 10 year management plan. Mr Patmore stated that biodiversity proposals are planned for small key areas being enhanced with no ground disturbance to allow for natural growth of the site, particularly on the northern boundary as a landscape feature. Scrub growth will be promoted and vegetation moved around the site to promote what is there and small habitats.

Councillor Owen asked Mr Rose why he wanted this to be a public community space and to care for it over the next ten years, asking what happens to the land after this period of time has expired, unless a trust is in place it will run wild. Mr Rose responded that he had thought at the outset that there would be an appetite to help him with the venture, but pointed out that the town charity was not interested. He had thought that the site would be managed on an equitable split to cultivate half the land for income and use that income to subsidise the rest and he wanted to make a token gesture to the town, to give something back, however this has resulted in cynicism towards him and his family and his planning application. Mr Rose stated that Whittlesey Town Charity do not get into those type of management arrangements and Showfields Limited will be managing the site for the next 10 years, if there is no appetite for the space within that time he will have to find another use for it.

Councillor Mrs Mayor asked Mr Rose what crops have recently been grown on the land. Mr Rose confirmed that it had been used for haymaking.

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

- Councillor Cornwell commented that any protected area of open space is appreciated, he could understand the view of the Town Council and they would have to look carefully at an offer such as this. Councillor Cornwell questioned whether there was any way to pump prime this venture to allow the Town Charity to take it on, he would not like this land to be lost to the public, it will be an interesting area, he would support it but it requires conditions;
- Councillor Owen asked for clarification, what is 9.5 hectares. Officers clarified that this equates to approximately 24 acres;
- Councillor Mrs Mayor commented that she was a little concerned and would question why a planning application is required as in her view it is not any different to what the land is currently. She pointed out that Mr Rose has approached Whittlesey Charity who are not interested in taking it on, there are two existing nature reserves which are both widely used by the public and local schools and asked if another one is needed. Councillor Mrs Mayor pointed out that approval has been given for the Country Park, there is a committee in place to support this. Officers explained that this constitutes a change from agriculture to a recreation area, hence the need for a planning application.

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

**Granted, subject to the conditions reported.**

Members vote recorded as: 8 in support of the recommendation, 4 against the recommendation. Councillor Mrs Mayor requested that her vote against the recommendation be recorded.

(Councillors Mrs Laws, Miscandlon and Mrs Mayor stated that they are Members of Whittlesey Town Council, are not on the Planning Committee and take no part in planning matters)

(Councillor Mrs Laws declared a Non-Pecuniary Interest in this application, and retired from the meeting for the duration of the discussion and voting thereon)

(All Members present registered, in accordance with Paragraph 2 of the Code of Conduct on Planning Matters, that they had been lobbied on this application by the applicant and objectors)

**P23/15**

**F/YR15/0263/F**

**MARCH - LAND WEST OF 126-132 ELLIOTT ROAD ACCESSED FROM PEAS**

**HILL ROAD**

**ERECTION OF 9 X 2-STOREY 2-BED DWELLINGS INVOLVING DEMOLITION OF EXISTING OUTBUILDING**

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 considered 6 letters/emails of objections.

Officers informed members that:

- The agent has requested that should members be minded to approve the application that they would be prepared to carry out a biodiversity survey for the site prior to planning permission being issued. Officers would be satisfied with this approach subject to the survey being carried out within 3 months of the date of this committee with the findings being reported and any mitigations/enhancements being secured by suitable planning conditions;
- Whilst this aspect of the proposal can be resolved, the reason of refusal relating to the provision of affordable housing is retained and officer's recommendations remain the same as that detailed on page 99 of the Agenda;
- John Maxey (who will be speaking at this Committee) on behalf of the agent, has emailed officers in relation to the provision of affordable housing aspect of the proposed development. He has raised points which he will be covering in his presentation in relation to the law surrounding the Planning Practice Guidance and the judicial review which is still pending a decision;
- A further email has been received from John Maxey referring to an appeal decision from earlier this week. The appeal was dismissed on multiple grounds, however the Inspector suggested that the affordable housing threshold should be aligned with the Planning Practice Guidance. The Council did not have an opportunity to raise objections in this regard. Despite this, officers maintain their view that Policy LP5 retains sufficient weight to outweigh the Planning Practice Guidance approach.

Members received a presentation in accordance with the public participation procedure, from Mr Maxey, on behalf of the applicant's agent to the proposal. Mr Maxey asked officers to clarify that they were happy with biodiversity by way of condition but had just made the recommendation that this was reason for refusal. Officers responded that the recommendation made to members was that if members do want to proceed with the recommendation of refusal that they retain both reasons for refusal as they do not have a biodiversity survey at this moment in time.

Mr Maxey stated that he was in attendance to speak on behalf of P Humphrey, the agent, in his absence. Mr Maxey stated that planners are happy that biodiversity is conditioned should members be minded to approve the application, with a report submitted before release of consent. The main issue is affordable housing and whether the Council's policy in the Local Plan or the ministerial written statement of 28 November 2014 which makes the threshold 10 units rather than the Council's policy level takes precedence. Planning officers are saying that the Local Plan takes precedence and Mr Maxey would provide evidence to support why a change in national policy subsequent to the Local Plan has to be taken into account as a material consideration and whether it overrides that plan. The first slide showed the website on which the NPPF can be found and it says that the NPPF should be read alongside other national planning policies, this is not guidance, they are policies and they include S106 planning obligations on small scale sites, which was the ministerial announcement that changed the threshold to 10. This is policy not additional guidance, it is a change in national policy brought in by the Government last November. NPPF says planning law applies unless material consideration indicate otherwise. This is a material consideration as officers have confirmed and is national policy that Mr Maxey would argue overrides this aspect of the Local Plan. Clarification was sought from the minister himself, Brandon Lewis and Steve Barclay which says that changes to national policy are material consideration to which authorities must have regard in determining planning applications.

Mr Maxey made reference to a planning decision issued on 20 July 2015, the land at March Road, Wimblington, it dismissed the appeal on design and location grounds but did deal with a preliminary matter, in paragraph 3 of the Appeal Decision, 'at the time the application was deferred and the Council attached reason for refusal number 6 that the applicant had failed to enter into a Section 106 planning obligation to provide affordable housing under policy LP5 under the Local Plan, however in the period since then a ministerial statement of practice guidance has specified that the threshold at which it is acceptable to require affordable housing contribution has changed to developments of 10 or more dwellings, rather than in Policy LP 5 which is 5'. As the proposal is for 7 houses the requirement for affordable housing no longer applies. Mr Maxey reminded members of the implications of making decisions with good planning reasons and the risk of losing appeals and then costs against the Council. The reasons Mr Maxey set out it is very clear if this application is refused and goes to appeal on the affordable housing grounds Inspectors would follow the national policy, would permit the appeal and award costs and Mr Maxey requested members to take account of the national policy and approve the application.

Councillor Owen asked Mr Maxey if this proposal for 9 dwellings is the same person that erected the other 29 dwellings. Mr Maxey responded that this is a separate application.

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

- Councillor Cornwell asked if there is an access point onto the driveway and does it become a through road from the driveway to Elliott Road and is it possible to go from Peas Hill Road onto the track to Elliott Road. Officers confirmed that the access will be closed off and will only be accessible from Peas Hill Road.
- Councillor Bucknor asked officers if the Council is at a point when planning policy guidelines override the Local Plan. The Legal officer responded that this was difficult to answer. Section 38 (6) of the planning Compulsory Purchase Act 2004 makes it clear that when considering any planning application the starting point has to be the Local Plan unless material considerations indicate otherwise. The Legal advice would be that the ministerial statement does not override the Local Plan and doesn't amend the plan and there is a case ongoing in the High Court awaiting a decision. Matters are more complicated due to the appeal decision on Monday and if members read it, it would be reasonable to assume that more weight should be given to the ministerial statement than should be given to the Local Plan, however the Legal officers viewpoint is that he feels that the Inspectors decision is flawed as had he said yes the Local Plan is your starting point and I am going to attach

more weight to the ministerial statement that would give us more difficulty, but because of the way the decision is worded the Legal officers view is that the decision is flawed. The mechanism of judicial review is being considered which must be brought within 6 weeks. The Legal officer advised that he does not think Fenland is bound by the decision, Inspectors decisions and not binding like High Court decisions, they are material planning considerations and members do need to take them into consideration but hope the decision with the Reading and West Berkshire case will provide clarity and if determined as expected it will override that case. The starting point has to be the Local Plan. Officers advised the starting point should be LP5 of the Local Plan, we have a very recently adopted Local Plan and the affordable housing need was based on a very careful assessment of need within the District and there are thousands on the affordable housing waiting list for affordable homes, therefore the Local Plan takes precedence, need to consider if there is something about this particular site that would take the ministerial statement on board and should that override the Local Plan. Officers can see no reason why this should be the case and advised that the Local Plan should still take precedence in this case;

- Councillor Cornwell commented that he would support the recommendation here on the basis that as we stand at the moment that is the correct decision to take, however it may be that in a short time there will be something that will provide stronger guidance, at the moment our Local Plan takes priority;
- Councillor Connor commented that the Local Plan is barely 12 months old and until we get further guidance the Local Plan is the document to use;
- Councillor Mrs Laws raised concerns regarding the Inspectors report, commenting that she has always respected whatever the Planning Inspector's decision has been, this does not seem suitable to this application. Councillor Mrs Laws asked when are we awaiting the decision from the High Court and how long will it be. She commented that there are guidelines and timeframes. The Legal Officer responded that his understanding was that the appeal was lodged in or around January 2015 and being dealt with by the new Planning Court, they try to have a target of 6 months and he had telephoned the High Court on Monday and the decision has not been made and the papers are with the Judge. Councillor Mrs Laws commented that we could write to get a decision. The Legal Officer advised that we could write but we do not have any standing in the case. Officers responded that this is a significant decision for a majority of local authorities in the country who are waiting for this decision and will have a significant effect countrywide. Councillor Mrs Laws observed that Whittlesey and District when looking at developments that are 169, 240, 220 and 150, does not know the ratio of what can be achieved for social housing, asked is it because the Local Plan is only 12 months old, we have substantial developers coming through with 5 and 10 and is this one of the stumbling blocks with the Local Plan that we have a higher number of small developments and we need to achieve the social housing number. Officers responded that the majority would come from larger sites, smaller sites can make a contribution to those levels that is why the policy is in the Local Plan. It is based on careful assessment of the types of housing that comes forward, there are a large number of smaller sites that come through the system. Councillor Mrs Laws commented that the idea of having 10 or more properties to deliver social housing was to help the economy, also to permit smaller developments to come forward, to encourage trading people and giving the smaller developers and one off land owners an opportunity to use that land instead of land banking, ensuring delivery of houses through the freehold market, below 10 this is not possible and she asked if this needs to be taken into account. Officers responded that there is a significant contribution to be made on smaller residential developments to affordable housing, we have to take on smaller sites to help with that need, hence it is in the Local Plan. Councillor Mrs Laws noted that there is a comment about drainage and sewage from March Town Council and Middle Level and Anglian Water have made no comments which concerned her. Officers responded there were no comments received from Anglian Water of Middle Level;



- Councillor Owen commented that the reason the comment about drainage and sewage had been included is because when the previous dwellings were built 7-8 years ago the developer forgot to put the road drains in, causing flooding to numerous properties further down the hill and then they were put in. If this development is approved the drainage must be spot on so as not to have a repetition of this scenario;
- Councillor Sutton commented that he had heard nothing that had changed his view of the Fenland Local Plan and if he had he would have changed his mind. He commented that the speaker had said that they had only been told about biodiversity about a week ago suggests that we need to look at our validation process as we try to work with developers and agents to make that validation easier. He commented that they would look at the site and not realise that they would need to do that type of work and asked if we need to get a little more robust in our validation process. Officers responded that they had noted the comment.

Proposed by Councillor Cornwell, seconded by Councillor Connor and decided that the application be:

**Refused, for the following reasons:**

1. **In accordance with Policy LP5 of the Fenland Local Plan 2014 this proposed development of 9 dwellings should provide, subject to viability, 20% affordable housing, this being the provision of 1 dwelling to be affordable, plus the payment of a financial contribution to the Council, of broadly equivalent value to the provision of 0.8 of a further affordable home on that site to enable some housing to be met elsewhere. The applicant has failed to enter into a Town and Country Planning Act S106 agreement to secure contribution relating to affordable housing or go through a viability assessment to indicate that these contributions cannot be met in full. As such the application is contrary to Policy LP15 of the Local Plan 2014;**
2. **In accordance with Policy LP16 (b) and Policy LP19 of the Fenland Local Plan 2014 the proposed development should protect and enhance biodiversity on and surrounding the site, taking into account locally designated sites and the special protection given to internationally and nationally designated sites. The application has failed to submit an appropriate biodiversity study and as such the Local Planning Authority is unable to assess any impacts of the proposal in this regard. As a result the proposal is contrary to criteria (b) of Policy LP16 and Policy LP19 of the Fenland Local Plan 2014.**

Members vote recorded as: 11 in support of the recommendation, 2 against the recommendation.

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

*(Councillor Sutton declared a Non-Pecuniary Interest in this application, by virtue of his attendance at a Development Forum at which this was discussed and said that he would look at all material considerations prior to determination of this application)*

**P24/15      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**

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 considered 7 letters of support.

Officers informed members that:

- Fenland District Council Traveller and Diversity Manager confirms that Rose and Billy are brother and sister and are both ethnic Gypsy Travellers. He also notes that Rose has informed him that her son has health issues and that she has discussed this with the case officer and has provided photographic evidence of this. The committee were also advised of this in the presentation by Mrs Wilson on 4 June 2015;
- The suggested conditions are based on the Government model for Gypsy's and Travellers, the application is back for member endorsement.

Members received a presentation in accordance with the public participation procedure, from Mrs Wilson, the applicant. Mrs Wilson clarified that on 26 March 2015 she and her brother had met with the Planning Team and explained to them that the application was for her and her brother Billy, he signed the Certificate of Ownership. Mrs Wilson informed members that she and Elias had attended and were advised on the 7 April 2015 that a further fee was payable, it was made clear to officers that Elias was already on site and Golden View was his permanent residence. Within the application supporting documents had been submitted in line with LP5 of the Local Plan to extend Romany Traveller needs to provide accommodation for her brother and his children and Mrs Wilson and her husband. The validation should have confirmed at that point that Andrew Elias Joseph had lived at Golden View since he was 7 years old, it is his address and it has always been his home and address, they have the same parents. Mrs Wilson confirmed that she lives at Parson Drove part time due to her sons health problems as she needs extended care for him. Mrs Wilson confirmed that the existing building had been in situ since 27 March 2015 and her brother is currently paying Council Tax for the property. Mrs Wilson explained that when she had made her presentation at Planning Committee on 3 June 2015 she did it based on an expected Refusal of permission and did not think that LP5 needed exploring further. At that meeting Mrs Wilson had explained that the land was purchased, she had spoken about both families, had provided photographic evidence, officers were aware of the health care issues for her son and provided evidence and the application was granted subject to conditions.

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

- Councillor Mrs Laws raised concerns regarding the administration of the Validation Process. The Chairman confirmed that this matter was being dealt with;
- Councillor Owen asked Mrs Wilson if she had been at committee a couple of months ago as he was under the impression that subject to conditions this application had been granted and asked if this was the case. Mrs Wilson confirmed that she had been to committee on 3 June 2015. Officers responded that the conditions were not agreed at that meeting and they had met with the Chairman to agree the conditions and members needed to consider the application again due to personal consent and to agree the conditions which the application had been granted subject to previously. The Chairman clarified that the conditions required the approval of members as they had not been clarified at the previous meeting and the application needed to be implemented in the appropriate manner;
- Councillor Mrs Laws commented that she had read the officers report which clarifies the conditions and understood why it had been returned to committee and she was pleased that the matter of miscommunication is being addressed and recommended the application for approval.

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

**Granted, subject to the suggested conditions.**

Members vote recorded as: 12 in support of the recommendation, 1 against the recommendation.

(Councillor Connor declared a Non-Pecuniary Interest in this application, by virtue of him knowing the applicant for many years)

**P25/15**      **F/YR15/0450/F**  
**COATES - LAND SOUTH EAST OF 70 FIELDSIDE**  
**ERECTION OF 4 X 2-STOREY DWELLINGS COMPRISING OF 2 X 3-BED WITH**  
**ATTACHED GARAGES 1 X 3-BED AND 1 X 4-BED WITH DETACHED GARAGE**  
**AND ERECTION OF A 2.0M (MAX HEIGHT) BOUNDARY WALL INVOLVING THE**  
**DEMOLITION OF EXISTING OUTBUILDINGS**

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:

- Whittlesey Town Council comments have been received as follows:
  - *'The Town Council recommend refusal of this application on the grounds of the site is not within, or adjacent to the existing developed footprint of the village. The size and position of the site is such that the development would fail to respect the core shape and form of the settlement. As such the proposal would appear as a visually incongruous feature which would adversely affect the sustainable growth of the village and the character and appearance of the area. The proposal is therefore contrary to Policy LP12 of the Fenland Local Plan 2014';*
- No comments have been received from the Ramblers Association or Middle Level Commissioners;
- An amended block plan has been received showing the relocation of the street light outside of the proposed dropped kerb crossing area;
- Cambridgeshire County Council (CCC) Highways comments in respect of the drawing are as follows:
  - It should be stated on the plans that the street lighting column to be relocated to a location agreed with CCC Street Lighting. Otherwise no objections;
  - The drawing is noted however it does not overcome the fundamental concern with the principle of the proposal.

Members received a presentation in accordance with the public participation procedure, from Mr Melton, a representative of the applicant's agent. Mr Melton thanked members for allowing him to speak. Mr Melton commented that Officers had previously said that we work to the 2014 Local Plan not 1993. Mr Melton stated that he worked on both and signed them both off. Mr Melton explained that he was at the meeting as he had attended a recent Developers Forum and wanted to protect the Local Plan and when members took control 5 years it was clear they wanted to encourage good quality housing within the district and affordable homes. This was endorsed by Full Council and the Local Plan adopted, development areas were gone and yet officers still use the terminology 'outside the development area' and he pointed out there is no such thing. Mr Melton said he was supporting the development to send a message as far as towns are concerned that they are going to grow significantly. He stated that it is the wish of members that villages grow organically and as stated by the Secretary of State this type of application gives all the things we aspire to, small-scale growth to villages.

Mr Melton stated that officers use Policy LP3 'adjacent to the community' and commented that he had visited the site and it has a division of a road and this is a golden opportunity to let the village grow and stated that planning is about economical use of the land and to create homes for the people.

Councillor Sutton commented that although organic growth is wanted in the villages it has to be in the right place. He pointed out that officers recommendation was for refusal and he agreed with them, stating that appeal after appeal gets dismissed for this type of application and did not agree that officers interpretation of planning is wrong. Mr Melton pointed out that it is elected members who make the decision, officers who make the recommendations and then provided examples of houses being built out of the village footprint and just inside the boundary and three houses being built that are not within the definition of centre of a village and these have been approved.

Councillor Sutton clarified to Mr Melton that one of the dwellings mentioned by Mr Melton is a replacement dwelling, two are being built under special conditions to raise money for a village hall. Mr Melton commented that development is allowed when interpreted as in the countryside and for special circumstances and commented that people should be given the ability to build their houses on the edge of nice villages. Councillor Sutton responded that Mr Melton was referring to his house and clarified that this had been built within the old development area boundary.

Councillor Mrs Newell asked Mr Melton why he was so enamoured with the Core Strategy. Mr Melton responded that he was the author of the Local Plan, it had endorsement from Eric Pickles, had been rated highly and signed off and had been complimented on its flexibility.

Councillor Owen commented that looking at conclusions in the report it seems that the development backs onto the electric substation and asked if it was adjoining. Mr Melton confirmed that it was adjoining.

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

- Councillor Mrs Laws asked officers to read the letter from Whittlesey Town Council and commented that Coates is a growth area, growth is happening but has to be in keeping, Whittlesey Town Council has considered growth in villages and have decided that this is not suitable development;
- Councillor Owen asked for clarification regarding page 124 as to whether the proposal is adjoining. Councillor Miss Hoy responded that only one side is adjoining. The Chairman explained that the layout and roadways are in the ownership of number 71 and next to it are bungalows and 72 is on Fieldside track.
- Councillor Murphy commented that the reason for refusal was the same as two others on the track, stating that others have been refused and this application is the same.

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

**Refused, for the following reasons:**

1. **Policy LP12 allows for new development in villages, subject to the requirements of policy LP3, to be positioned in or adjacent to the existing developed footprint of the village. The footnote to LP12 stipulates that the developed footprint of the village is defined as the continuous built form of the settlement and excludes individual buildings and groups of dispersed or intermittent buildings which are clearly detached from the continuous built up area of the settlement.**

The site is not within, or adjacent to, the existing developed footprint of the village. As such the proposal would appear as a visually incongruous feature which would adversely affect the sustainable growth of the village and the character and appearance of the area. The proposal is therefore contrary to Policy LP12 of the Fenland Local Plan 2014;

2. Policy LP19 of the Fenland Local Plan 2014 requires new development to conserve, enhance and promote biodiversity throughout the District. The application site constitutes a large garden area with outbuildings. A biodiversity survey has not been submitted which is of concern given the character of the site and the potential for wildlife habitats. In the absence of a biodiversity survey it is not possible to assess the situation with regards to the presence of wildlife, this would be to the detriment of biodiversity interests. As such the application is contrary to Policy LP19 of the Fenland Local Plan 2014.

Members vote recorded as: 6 in support of the recommendation, 4 against the recommendation, 2 abstentions.

**P26/15**      **F/YR15/0482/F**  
**PARSON DROVE - PLOT 1 SITE OF RUPEN, LONG DROVE**  
**ERECTION OF A 2-STOREY 4-BED DWELLING WITH INTEGRAL GARAGE**  
**INVOLVING DEMOLITION OF EXISTING MOBILE HOME AND OUTBUILDINGS**

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 considered 7 representations of support.

Officers informed members that:

- Parson Drove Parish Council comments have been received as follows:
  - *'The Council object to this application and recommend refusal for the following reasons:*
  - *Long Drove is not a Hamlet and the majority of existing development was associated with agricultural use, this application is not for agricultural use. The proposed dwelling is outside the main village centre and outside the development footprint of the village and therefore encroaches into the open countryside. The scale of the proposed development is out of scale compared to the existing mobile home that it is proposing to replace';*
- CCC Highways comments have been received as follows:
  - The erection of a 4-bed dwelling will intensify the use of the existing access compared to the mobile home. There is a requirement to provide vehicle to vehicle visibility splays detailed at 2.4m x 215m with no obstruction within the visibility splay above 0.6m. Amended plans to this effect are required;
  - An amended block plan has been received showing the visibility splays requested by CCC Highways. However, this does not overcome the fundamental issues with the principle of the proposal being unacceptable.

Members received a presentation in accordance with the public participation procedure, from Mr Swann, the applicant's agent. Mr Swann thanked members for the opportunity to speak on this application.

Mr Swann stated that the application had been referred to committee due to the level of local support received. Mr Swann stated that this proposal is in line with Part C of LP12, to replace an existing mobile home, situated in a hamlet of 7 households. Mr Swann confirmed that the property 'Rupen' had been subject to a replacement dwelling. He confirmed that Mrs Jinks had been paying Council Tax since 2006 and this was not an additional house in the countryside. The proposal would improve access to the site and improve the kennels. Mr Swann pointed out that this proposal is consistent with planning applications F/YR12/0250/O in Murrow and F/YR14/0609/F in Guyhirn. Mr Swann stated that this proposal minimises flood risk with an additional floor being incorporated as the one already approved, it has been accepted by the EA, is not an urban form of development as there are gaps between the proposed and existing properties and from the officers report scale and design are acceptable. Mr Swann stated that the proposal complies with LP2, LP5 and LP12 and the NPPF paragraph 14, paragraph 17, paragraph 50, paragraph 58, and does not seek to provide an additional house in the countryside. It retains gaps between the development, enhances paragraph 100 plans to relocate the dwelling from Flood Zone 3 to Flood Zone 1 and is consistent with recent approvals. Mr Swann confirmed that this proposal does not seek to provide a dwelling in the countryside, complies with the NPPF and the Local Plan and is supported by immediate surrounding neighbours. Mr Swann asked members to approve the application with conditions that they deem to be appropriate.

Councillor Owen asked Mr Swann what response he had received from officers in relation to recent approvals he had mentioned in Guyhirn and Murrow. Mr Swann responded that officers response had been that each case would be considered on its own merits.

Councillor Murphy asked Mr Swann when was the last time he had visited the site as he had said that the replacement dwelling was being built and commented that on the site inspection members had seen the replacement dwelling and were concerned that nothing has been built it is just a piece of ground with a few pieces of foundation and it was not being built at all. Mr Swann responded that the foundations are in and it is up to DPC level to building control level and continues to be built.

Councillor Cornwell asked Mr Swann to confirm that the new replacement bungalow on the left that is being built faces the bungalow on the right and Mr Swann is saying that because there are some sheds at the back of the existing bungalow together with a mobile home that that means he is justified in building another permanent building on the right hand side. Mr Swann responded that there are effectively two dwellings on the site, one is the existing bungalow which is being replaced, one is a mobile home the owner is paying Council Tax on and is a permanent dwelling that officers have established in the report that is a lawful and a permanent structure. It is a mobile home but is a permanent dwelling.

Councillor Connor commented that the report says there are 7 representations of support and asked Mr Swann where these had been received from, it also says the proposal meets with most neighbours approval, commenting that there are not many neighbours and where have the 7 approvals come from. Mr Swann responded that the representations are all from local village residents, clarified as most immediate neighbours.

Councillor Murphy asked officers for clarification regarding the permanent building. Officers responded that the issue is that the mobile home has never benefitted from express planning permission and it has been on site for more than 10 years so it is lawful development through the passage of time but doesn't have planning permission and it is only lawful as it has been there to long for the Council to enforce against it.

Councillor Mrs Mayor asked officers if it is the mobile home that has the Certificate of Lawful Use. Officers responded that in 2009 a Certificate of Lawful Use refers to the occupation of Rupen and that has an agricultural tie on it and has been occupied for more than 10 years.

Councillor Owen asked officers if a Certificate of Lawful Use had been sought or applied for. Mr Swann responded that it does not have a Certificate of Lawful Use but officers acknowledge that it is lawfully a dwelling. Officers responded that the actual permission would be the siting of a mobile home, would not be a permanent structure. The Chairman reminded members that they should not make suppositions about what the applicant may be applying for. Mr Swann responded that what they are looking for is to improve the living conditions for the people living in that mobile home.

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

**Refused, for the following reason:**

- 1. Policy LP12 of the Fenland Local Plan 2014 allows for the replacement of dwellings located outside of the development footprint of a settlement where, amongst other criteria, the original dwelling is not a temporary or mobile structure and the replacement dwelling is located on the footprint of the original dwelling. The proposal would result in the replacement of a mobile home with a permanent building and it would be positioned on a completely different footprint, to the front of the site. The development would therefore result in an additional permanent structure which will intensify the built form within the area. This would adversely impact on the wider setting of the area, to the detriment of the character and qualities of this countryside location, contrary to policy LP12 of the Fenland Local Plan 2014.**

Members vote recorded as: 7 in support of the recommendation, 1 against the recommendation, 3 abstentions.

5.47pm

Chairman