

**22/00462/FUL**

Land Accessed Between 2 And 4 Fordham Road

Isleham

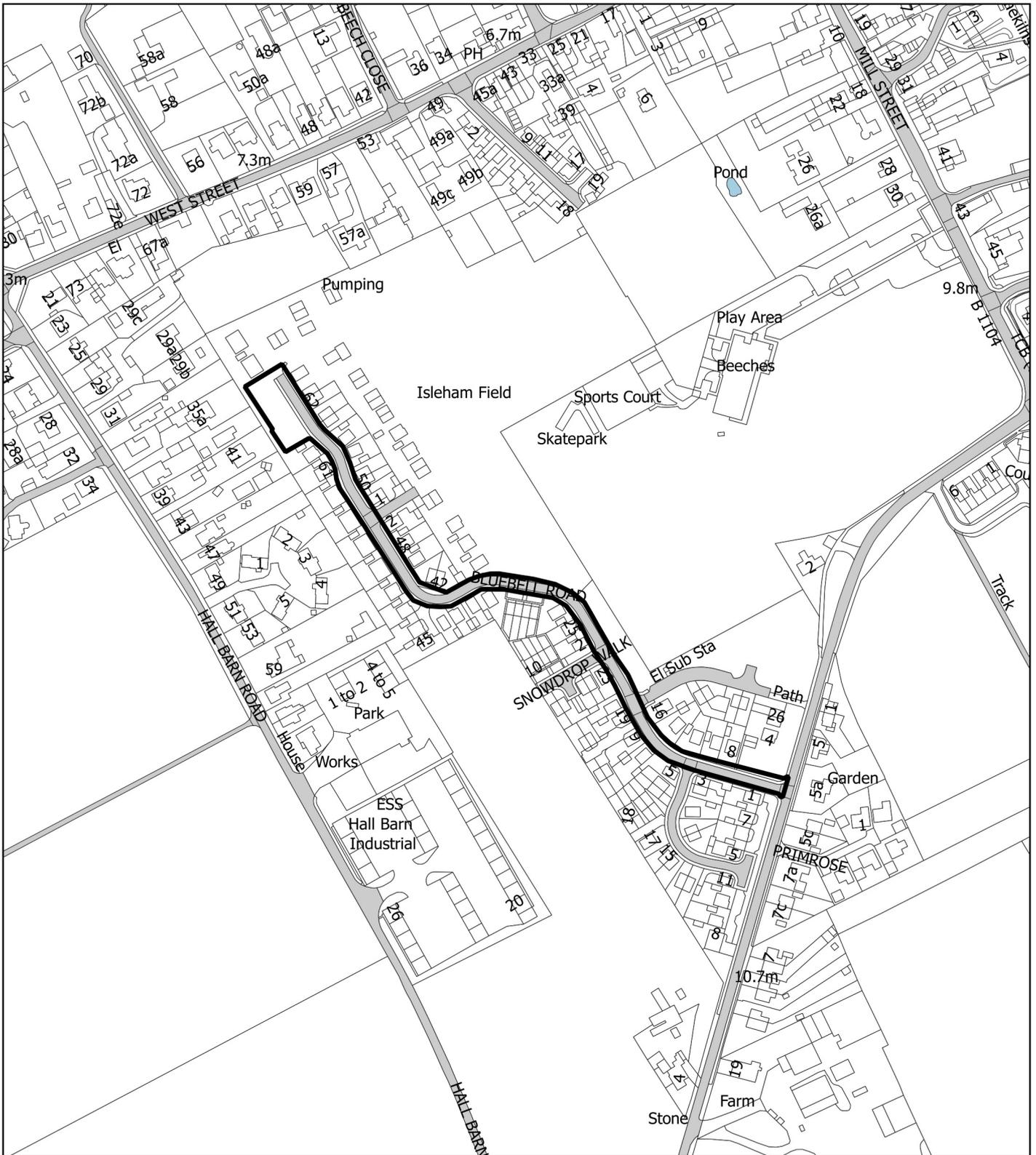
Cambridgeshire

Erection of four market dwellings, garages, parking spaces, hard and enhanced soft landscaping, access and all other associated infrastructure (see 21/01636/FUL) (part-retrospective)

To view all of the public access documents relating to this application please use the following web address or scan the QR code:

<http://pa.eastcambs.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RAC39SGGFR700>





22/00462/FUL

Land Accessed Between 2  
And 4  
Fordham Road  
Isleham



East Cambridgeshire  
District Council

Date: 22/08/2022  
Scale: 1:3,500



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**MAIN CASE**

**Reference No:** 22/00462/FUL

**Proposal:** Erection of four market dwellings, garages, parking spaces, hard and enhanced soft landscaping, access and all other associated infrastructure (see 21/01636/FUL) (part-retrospective)

**Site Address:** Land Accessed Between 2 And 4 Fordham Road Isleham Cambridgeshire

**Applicant:** Bloor Homes

**Case Officer:** Holly Chapman Senior Planning Officer

**Parish:** Isleham

**Ward:** Fordham And Isleham  
 Ward Councillor/s: Julia Huffer  
 Joshua Schumann

**Date Received:** 14 April 2022      **Expiry Date:** 27 June 2022  
**Report Number X50**

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1.0 **RECOMMENDATION**

- 1.1 Members are recommended to **REFUSE** the application for the following reason:
- 1) The proposal for four two storey dwellings would cause detrimental harm to the residential amenity of the existing dwellings along Hall Barn Road to the rear of the site, primarily due to loss of privacy. The proposal therefore does not comply with Policy ENV2 of the Adopted Local Plan 2015 or Policy 3 of the Isleham Neighbourhood Plan 2022, due to the significant detrimental harm to the residential amenity of the existing adjacent residents of Hall Barn Road.

2.0 **SUMMARY OF APPLICATION**

- 2.1 The full planning application, plans and documents submitted by the Applicant can be viewed online via East Cambridgeshire District Council's Public Access online service, via the following link <http://pa.eastcambs.gov.uk/online-applications/>.
- 2.2 A previous application for four dwellings within the application site Local Planning Authority (LPA) Ref. 21/01636/FUL) was presented at the April 2022 Planning Committee and subsequently refused by the Council. Given this recent planning history and Committee Decision, in accordance with the Council's Constitution and

scheme of delegation, the current application is being put before Planning Committee for determination.

- 2.3 It is to be noted that two extension of time requests were sent to enable the application to be taken to the September Planning Committee, but these have not been signed by the Applicant.
- 2.4 The proposals seek part-retrospective consent for the erection of four two-storey detached dwellings, garages and associated infrastructure within the wider Bloor Homes development of 125 homes along Fordham Road, Isleham.
- 2.5 The proposed dwellings and associated works comprise a re-submission of the scheme previously submitted and refused under LPA Ref. 21/01636/FUL, with the addition of further planting within the rear gardens of each plot and increased fence and trellis heights to 2.6 metres (c.8.5 foot) in total, comprising c.2.2 metre (c.7.2 foot) fence panels and c.0.4 metre (c.1.3 foot) trellis.
- 2.6 The scheme originally submitted with the application sought to amend the rear fenestration proposed within the four dwellings by removing one of the rear windows per dwelling and relocating this to the side. However, following concerns raised by Officer's with regard to residential amenity impacts, the Applicant was offered the opportunity to amend the proposals, including changes to the proposed fenestration. The Applicant subsequently chose to revert the proposals to the house types as previously submitted under LPA Ref. 21/01636/FUL.
- 2.7 During the course of the application, the Applicant submitted to the Local Planning Authority (LPA) legal advice prepared on behalf of Bloor Homes. The Council sought its own legal advice in response to this, and is comfortable with the advice received and the Council's legal position.

### 3.0 PLANNING HISTORY

3.1

18/00363/OUM	Outline planning permission with all matters reserved except for access for the erection of up to 125 dwellings including affordable housing, land to be reserved for nursery use (Use Class D1), open space including an extension to the recreation ground, play areas, sustainability drainage features and associated infrastructure including foul sewage pumping station	Approved	08.11.2018
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19/00447/RMM	Reserved Matters for the construction of 121 dwellings and associated works following approval of outline planning permission 18/00363/OUM	Approved	06.12.2019
21/01636/FUL	Construction of four market dwellings, garages, parking spaces, hard and soft landscaping, access and all other associated infrastructure	Refused	08.04.2022

#### 4.0 THE SITE AND ITS ENVIRONMENT

- 4.1 The application site forms four plots within the wider Bloor Homes development off Fordham Road, Isleham, which comprises 125 dwellings. The wider residential development is partially occupied and partially still under construction. The site is situated outside the defined development for Isleham. To the south-west of the site are residential dwellings which are accessed off Hall Barn Road. To the north-west, north-east and south-east are the residential properties approved as part of applications 18/00363/OUM and 19/00447/RMM and are currently under construction.
- 4.2 The four plots the subject of this application are under construction, and the proposals are therefore partially retrospective. The developer has undertaken the works at their own risk.

#### 5.0 RESPONSES FROM CONSULTEES

- 5.1 Responses were received from the following consultees and these are summarised below. The full responses are available on the Council's web site.

**Environmental Health - 26 April 2022**

States: "Thank you for consulting me on the above proposal. We have commented on this site previously. No contamination assessment has been submitted with this application. However, a contamination land condition was discharged with an earlier application. Due to the proposed sensitive end use of the site (residential) I recommend that standard contaminated land condition 4 (unexpected contamination) is attached to any grant of permission."

**Environmental Health - 5 May 2022**

States: "I have no additional comments to make at this time."

**Waste Strategy (ECDC) - 11 May 2022**

States: "o Comments previously supplied on 19/00447/RMM stand.  
o Under Section 46 of The Environmental Protection Act 1990, East Cambridgeshire District Council as a Waste Collection Authority is permitted to make a charge for the provision of waste collection receptacles, this power being re-

enforced in the Local Government Acts of 1972, 2000, and 2003, as well as the Localism Act of 2011.

o Each new property requires a set of receptacles; the contribution is currently £52 per set. We would recommend the developer made the contribution on behalf of the residents.

o Payment must be made in advance of bins being delivered; East Cambs District Council Account Number 43135897, Sort Code 52-41-19, reference should be the planning application number followed by (bins) i.e. 15/012345/FUL (bins) a separate e-mail should also be sent to waste@eastcambs.gov.uk detailing the payment amount and the planning reference number.”

**Local Highways Authority - 29 April 2022**

States: “I do not object to this application which is not materially different to the previous application 21/01636/FUL. While this application was refused, there were no highways objections.

The proposals are consistent with the wider development which benefits from existing permissions.

The applicant should however ensure that detail aligns with CCC's Housing Estate Road Construction Specification so that these four dwellings do not compromise any potential adoption agreements for the wider site.”

**Lead Local Flood Authority - 17 May 2022**

States: “We have reviewed the following documents:

Planning Statement, Pegasus Group, Ref: P21-0809, Dated: 13 April 2022

Based on these, as Lead Local Flood Authority (LLFA) we have no objection to the proposed development.

The above documents demonstrate that surface water from the proposed development can be managed within the wider development. It has been demonstrated within previous consultation that there is capacity within the existing proposed and agreed drainage infrastructure across the scheme. The wider drainage strategy and infiltration basins were designed to accommodate runoff from these properties when designed. Therefore, the construction of these properties will have no impact on the agreed surface water drainage strategy proposed for the site.”

**Parish - 10 May 2022**

States: “We believe this application to be a complete mockery of the planning process and the previous commitments made by Bloor homes.

- Initial approval was given on the basis that these were self-build sites, yet we believe Bloor deliberately failed to advertise these at a realistic market price so as to capitalise on the full value of these plots

- This application shows only the most nominal of changes from the previous application and does virtually nothing to address the concerns raised by ECDC planning committee or those repeatedly raised by residents in particular the measures identified to improve privacy ie the extension of fencing is mathematically inaccurate and the planting of single trees against each property will have virtually no impact

- Bloor quite specifically stated that they would only construct bungalows along this sensitive section of the site. By renegading on this agreement and constructing large, 2 storey dwellings they are significantly impacting on the privacy of properties

on Hall Barn Rd causing enormous emotional distress and financial loss to these residents

- Their ongoing construction of these properties despite the lack of planning approval is a quite deliberate attempt to avoid planning enforcement

We have asked Cllr Huffer to 'call this application in' and will be writing directly to Bloor regarding their continuing arrogance and greed and the significant detrimental affect that this is having on the wellbeing of residents and their corporate reputation."

#### **Parish - 7 June 2022**

States: "We believe this application to be a complete mockery of the planning process and the previous commitments made by Bloor homes.

- Initial approval was given on the basis that these were self-build sites, yet we believe Bloor deliberately failed to advertise these at a realistic market price so as to capitalise on the full value of the plots

- This application is virtually a mirror of the application already refused by ECDC and does virtually nothing to address the concerns raised by ECDC planning committee or those repeatedly raised by residents. In particular:

o this amendment represents an actually increase to the number of first floor windows overlooking neighbouring properties on Hall Barn Rd

o the measures identified to improve privacy ie the extension of fencing is mathematically inaccurate and even the proposed increase to the planting of trees will still leave gaps in screening.

- Bloor quite specifically stated that they would only construct bungalows along this sensitive section of the site. By renegading on this agreement and constructing large, 2 storey dwellings they are significantly impacting on the privacy of properties on Hall Barn Rd causing enormous emotional distress and financial loss to these residents

- Their ongoing construction of these properties despite the lack of planning approval is a quite deliberate attempt to avoid planning enforcement

#### **ECDC Trees Team - 9 June 2022**

States: "The indicative row of trees in the rear gardens of the proposed properties do not have any information as to what species they are which makes assessing their suitability imposable. I'm also concerned that trees planted so densely will cause significant shading of the garden making any long term retention of the trees very unlikely. Even small scale ornamental trees would be unsuitable planted in this way as they will become a green wall/hedge that blocks light from the gardens and rear rooms of the properties.

For an application that directly references enhanced soft landscaping I would expect some details beyond blobs on a plan.

The soft landscaping details it should include:

- 1) A scaled plan showing the locations of new and any existing vegetation
- 2) A tree pit design specification (See below)
- 3) A schedule detailing sizes and numbers/densities of all proposed trees/plants (Hedging ideally needs to be planted at 0.60m centres in a double staggered row, usually a 20% mix of five species for a native species hedge)
- 4) Specifications for operations associated with plant establishment (planting specification, weed control, mulching, watering pruning etc.) to include a programme for the timings of the landscape works and maintenance, to ensure

successful establishment and survival of new planting and having regard to the timing of the commencement of any development.

Tree pits to be excavated to a minimum size of 600mm larger than the container, rootball or bareroot stock and shall be square so as to avoid root girdling issues. The base of the tree pit shall be slightly domed and only 'broken' up in the event of inadequate drainage

Backfill tree pit with subsoil up to ~400mm depth from ground surface and with topsoil above ~400mm depth from ground surface or to match the existing soil profiles.

Watering 'dishes' to be created around the base of each tree, to hold water directly over rootball during watering

1m diameter mulched dish for Standard trees/3.0m in height or smaller

Bare root, root ball or container multi-stem trees shall be single staked as a minimum double staked as required, fixed with suitable tree ties (biodegradable if available and suitable)

Trees to be mulched with minimum 50mm settled depth, medium grade ornamental wood mulch

Planting to be undertaken in the first planting season (October to February) after completion of development activities.

For the reasons above it would not approve this application at this time.”

**CCC Growth & Development - No Comments Received**

**Ward Councillors - No Comments Received**

**The Gardens Trust - No Comments Received**

5.2 A site notice was displayed near the site on 25 May 2022 and a press advert was published in the Cambridge Evening News on 5 May 2022.

5.3 Neighbours – Seven neighbouring properties were notified and the responses received are summarised below. A full copy of the three responses are available on the Council's website, all received from No.35B Hall Barn Road.

#### Comments on Original Submission

- Minimal changes made to previously refused proposals (LPA Ref. 21/01636/FUL)
- No betterment proposed
- Overbearing
- Incorrect boundary fence size proposed/illustrated
- Concerns over perpetuity of proposed boundary fencing given it is proposed on the side of the proposed four dwellings
- Still overlooking from upper window, which is higher than the proposed tree
- Concerns over longevity/effectiveness of trees as screening, and in the future
- Covenant within planted buffer prevents growth limit of planting to 2.6 metres (c.8.5 foot)

### Comments on Amended Submission

- Incorrect boundary fence size proposed/illustrated
- Query over the retention of fencing/trellis
- Concerns over longevity/effectiveness of trees as screening

## 6.0 The Planning Policy Context

### 6.1 *East Cambridgeshire Local Plan 2015*

GROWTH 2	Locational strategy
GROWTH 3	Infrastructure requirements
GROWTH 5	Presumption in favour of sustainable development
ENV 1	Landscape and settlement character
ENV 2	Design
ENV 4	Energy efficiency and renewable energy in construction
ENV 7	Biodiversity and geology
ENV 8	Flood risk
ENV 9	Pollution
HOU 2	Housing density
COM 7	Transport impact
COM 8	Parking provision

### 6.2 *Isleham Neighbourhood Plan 2022*

Policy 1a	Housing Growth
Policy 2	Isleham's Development Envelope
Policy 3	Character and Design
Policy 7	Wildlife & Habitats
Policy 10	Car Parking
Policy 11	Cycle Parking & Storage

### 6.3 *Supplementary Planning Documents*

Developer Contributions and Planning Obligations

Design Guide

Contaminated Land - Guidance on submitted Planning Application on land that may be contaminated

Flood and Water

Natural Environments

Climate Change

### 6.4 *National Planning Policy Framework 2021*

2	Achieving sustainable development
4	Decision-making
5	Delivering a sufficient supply of homes
9	Promoting sustainable transport
11	Making effective use of land
12	Achieving well-designed places

- 14 Meeting the challenge of climate change, flooding and coastal change
- 15 Conserving and enhancing the natural environment

*Technical Guidance to the National Planning Policy Framework*

Technical housing standards – nationally described space standard

7.0 PLANNING COMMENTS

- 7.1 The application proposals seek part-retrospective consent for the erection of four two-storey detached dwellings with garages and associated works.
- 7.2 The scheme has been submitted in order to overcome the Council's refusal of LPA Ref. 21/01636/FUL, a scheme for four detached two-storey dwellings with garages and associated infrastructure that was refused by notice on the 8<sup>th</sup> April 2022, following an overturn by Members at the 6<sup>th</sup> April 2022 Planning Committee.
- 7.3 On this basis, before discussing the application proposals, it is therefore considered necessary to outline the planning history of the application site.

*LPA Ref. 21/01636/FUL*

- 7.4 The proposals under LPA Ref. 21/01636/FUL were presented at Planning Committee on the 6<sup>th</sup> April 2022 with a recommendation for approval – See **Appendix 1** (Committee Report 21/01636/FUL). This report addressed matters of principle; residential amenity; character and appearance; highway safety and parking provision; drainage; contamination; biodiversity net gain; and efficiency and renewables.
- 7.5 The agreed Committee Minutes (**Appendix 2** – Agenda Item 5) further sets out Officer's recommendation for approval of the scheme submitted under LPA Ref. 21/01636/FUL; the discussions of Members in assessing the application proposals; and the decision to overturn the Planning Officer's recommendation and refuse the application proposals.
- 7.6 The Committee Decision List (enclosed at **Appendix 3** – Agenda Item 5) sets out the Committee Decision and reason for refusal.
- 7.7 The Council issued the refusal of LPA Ref. 21/01636/FUL on the 8<sup>th</sup> April 2022 for the following reason as stated on the formal decision notice:  
  
*“The proposal for four two storey dwellings would cause detrimental harm to the residential amenity of the existing dwellings along Hall Barn Road to the rear of the site, primarily due to loss of privacy. The proposal therefore does not comply with policy ENV2 of the Adopted Local Plan 2015, due to the significant detrimental harm to the residential amenity of the existing adjacent residents of Hall Barn Road.”*
- 7.8 Given the above history outlined, this Committee Report will focus solely upon whether the re-submitted proposals have addressed the Council's reason for

refusal. It is considered that all other matters have been addressed within the Committee Report enclosed at **Appendix 1**.

*Re-Submitted Proposals under LPA Ref. 22/00462/FUL*

- 7.9 The only changes proposed under the current re-submission of the scheme as refused under LPA Ref. 21/01636/FUL comprise the provision of additional tree planting within the rear gardens of the proposed four dwellings, as well as the increased height of the boundary fencing/trellis proposed between the four dwellings and Hall Barn Road properties.

*Tree Planting*

- 7.10 With regard to the proposed tree planting within the rear gardens of the proposed for dwellings, along the shared boundary with Hall Barn Road properties, the LPA provide the following comments.
- 7.11 Landscaping itself cannot be relied upon in perpetuity as a means of screening development or making an otherwise unacceptable scheme acceptable; this is the standard approach of the LPA.
- 7.12 Landscaping, as a living organism, is susceptible to being cut back, death and/or thinning during different seasons, thereby reducing its effectiveness as a screen. Given that the landscaping is located within the gardens of the proposed four dwellings, it is also out of the control of the Hall Barn Road properties it is seeking to protect.
- 7.13 Whilst the LPA are able to require retention of landscaping for a 5 or 10 year maintenance period, or indeed longer if necessary, this does not preclude harm after this period has passed as houses are expected to be retained in perpetuity.
- 7.14 The Tree Officer comments dated 9th June 2022 also raise notable concerns over the proposed planting of trees in the identified location and their density. On the basis of the Tree Officer's advice, it is Officer view that any larger and faster growing species required to provide a sufficient and immediate screen could likely result in detrimental harm to the amenity of prospective occupiers of the proposed four dwellings in terms of shading and structural concerns for the proposed dwellings, given their density and proximity. Both shading and structural issues could place even more pressure on the trees to be cut back or removed and place significant uncertainty over their long-term retention.
- 7.15 Further to this, any smaller species which may fit within this space would unlikely grow fast enough to provide a suitable and immediate screen to the Hall Barn Road properties.
- 7.16 The provision of further landscaping within the rear gardens of the proposed four dwellings is not therefore considered to be an acceptable solution to address the Council's reason for refusal to LPA Ref. 21/01636/FUL.
- 7.17 It is also noted that comments received from a neighbouring property to the application site raise similar concerns to some of those outlined above.

### *Fencing/Trellis*

- 7.18 With regard to the proposed increase fencing and trellis, the LPA offer the following comments.
- 7.19 The proposed fencing and trellis illustrated, measuring c.2.6 metres (c.8.5 foot) in total, is not considered to provide an acceptable form of screening that would address the Council's previous reason for refusal. The fencing as proposed, despite being increased in height, is not considered to provide sufficient additional screening to Hall Barn Road properties from the first floor rear windows of the proposed four dwellings facing towards them. Whilst the proposed fencing would provide a further degree of screening to the end of the gardens of the Hall Barn Road properties, it is not considered to provide further screening to the more private areas of the gardens to the Hall Barn Road properties, this being the area closest to the rear elevations of the Hall Barn Road dwellings themselves.
- 7.20 Whilst the proposed fencing would prevent direct inter-visibility between the ground floor windows of the proposed dwellings and the Hall Barn Road properties, the proposed fencing is not considered to prevent inter-visibility between ground and first floor windows of the Hall Barn Road properties and the first floor windows of the proposed dwellings, and vice versa.
- 7.21 The proposed fencing/trellis details are not therefore considered to overcome the Council's reason for refusal to LPA Ref. 21/01636/FUL concerning loss of privacy for Hall Barn Road properties.
- 7.22 Other Material Matters
- 7.23 At the time of determining the previous application LPA Ref. 21/01636/FUL, the Isleham Neighbourhood Plan had not been adopted and was therefore only afforded moderate weight. On the 19<sup>th</sup> May 2022 the Isleham Neighbourhood Plan was 'made' and is now afforded full weight in decision making.
- 7.24 It is to be noted that the application site, and wider Bloor site, falls within the Isleham Development Envelope, as identified under Policy 2 of the Neighbourhood Plan. This development envelope is a modified version of the East Cambridgeshire District Local Plan 2015 development envelope for Isleham. The application site is therefore considered to represent a sustainable location.
- 7.25 Given the full weight to be applied to the Neighbourhood Plan, the proposals are now considered to be contrary to the objectives of Policy 3 of the Neighbourhood Plan, given the significantly detrimental residential amenity impacts identified by the Council in refusing the previous application under LPA Ref. 21/01636/FUL.
- 7.26 It is also relevant that Policy 3 of the Isleham Neighbourhood Plan 2022 requires "the installation of solar panels on all new developments." Solar panels have not been shown within the submission documents, but it is considered that these could be secured by an appropriately worded condition to address the Policy requirement. The Applicant has confirmed acceptance of this approach in writing, and therefore the absence of these details as part of the application submission will not form a reason for refusal, due to these details being secured via a condition.

7.27 **Planning Balance**

7.28 The application proposals as revised are not considered to have made any material changes to the previously refused LPA Ref. 21/01636/FUL that would address the Council's reason for refusal or that would affect the Council's previous decision.

8.0 APPENDICES

8.1 Appendix 1 – Committee Report LPA Ref. 21/01636/FUL (Agenda Item 5)

8.2 Appendix 2 – Relevant part of Committee Minutes 6<sup>th</sup> April 2022 (Minute 83)

8.3 Appendix 3 – Committee Decision List 6<sup>th</sup> April 2022 (Agenda Item 5)

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<u>Background Documents</u>	<u>Location</u>	<u>Contact Officer(s)</u>
22/00462/FUL	Holly Chapman Room No. 011 The Grange Ely	Holly Chapman Senior Planning Officer 01353 665555 holly.chapman@eastcambs.gov.uk

National Planning Policy Framework -

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/6077/2116950.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf)

East Cambridgeshire Local Plan 2015 -

<http://www.eastcambs.gov.uk/sites/default/files/Local%20Plan%20April%202015%20-%20front%20cover%20and%20inside%20front%20cover.pdf>

Isleham Neighbourhood Plan 2022 -

[https://www.eastcambs.gov.uk/sites/default/files/190522 Isleham NP App 1 %28print separately%29 AC checked.pdf](https://www.eastcambs.gov.uk/sites/default/files/190522%20Isleham%20NP%20App%201%20-%20print%20separately%29%20AC%20checked.pdf)

Supplementary Planning Documents

<https://www.eastcambs.gov.uk/local-development-framework/supplementary-planning-documents>

**21/01636/FUL**

Land Accessed Between 2 And 4

Fordham Road

Isleham

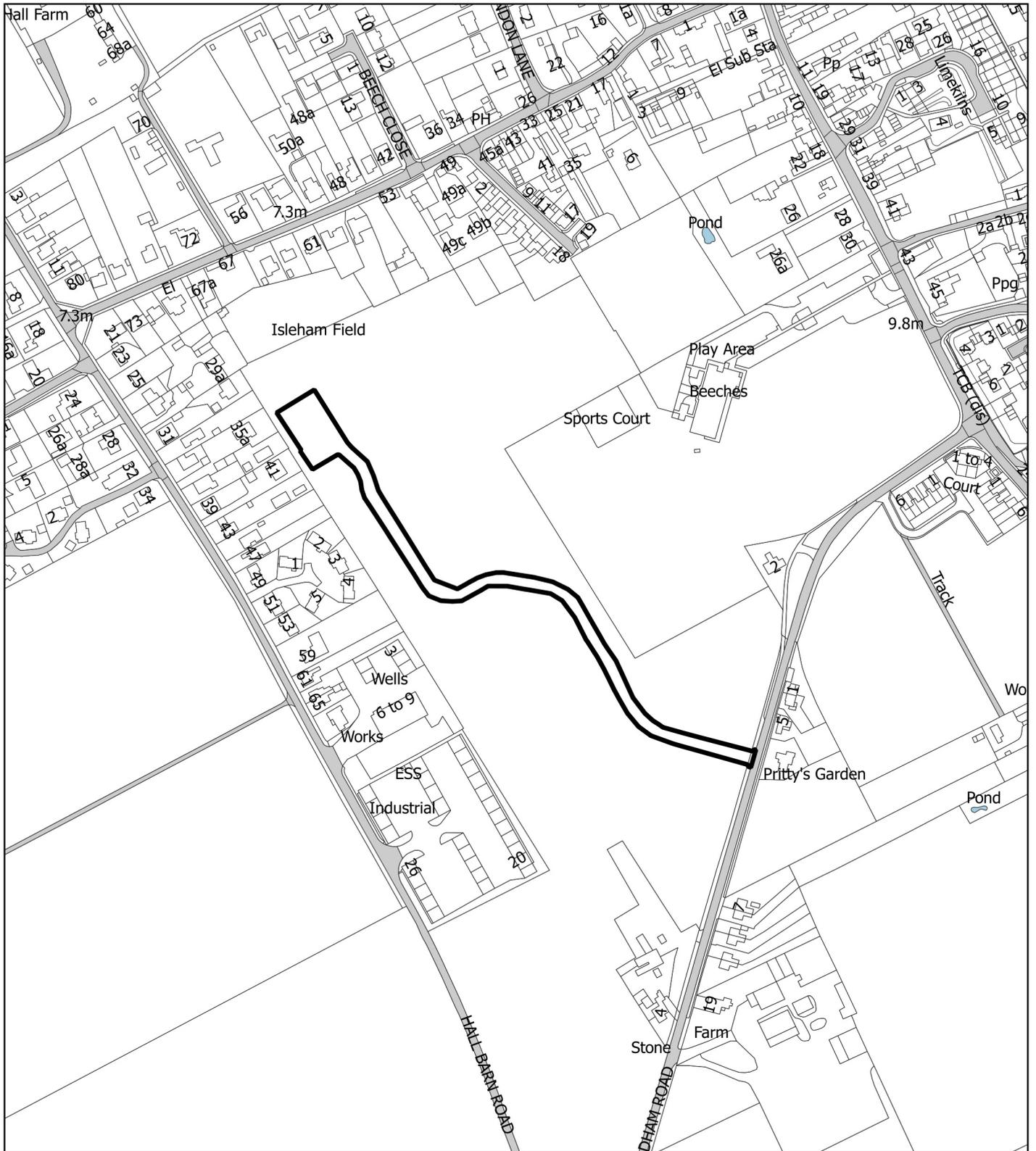
Cambridgeshire

Construction of four market dwellings, garages, parking spaces, hard and soft landscaping, access and all other associated infrastructure

To view all of the public access documents relating to this application please use the following web address or scan the QR code:

<http://pa.eastcambs.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=R2PP9UGGHYI00>





21/01636/FUL

Land Accessed Between 2  
And 4  
Fordham Road  
Isleham



East Cambridgeshire  
District Council

Date: 18/03/2022  
Scale: 1:4,000



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**MAIN CASE**

**Reference No:** 21/01636/FUL

**Proposal:** Construction of four market dwellings, garages, parking spaces, hard and soft landscaping, access and all other associated infrastructure

**Site Address:** Land Accessed Between 2 And 4 Fordham Road Isleham Cambridgeshire

**Applicant:** Bloor Homes

**Case Officer:** Molly Hood Planning Officer

**Parish:** Isleham

**Ward:** Fordham And Isleham  
 Ward Councillor/s: Julia Huffer  
 Joshua Schumann

**Date Received:** 17 November 2021      **Expiry Date:** 11<sup>th</sup> April 2022  
**Report Number W170**

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1.0      **RECOMMENDATION**

- 1.1      Members are recommended to APPROVE subject to the recommended conditions below:
- 1      Approved Drawings
  - 2      Time Limit - FUL/FUM - 2+ dwelling
  - 3      Reporting of unexpected contamination
  - 4      Foul and surface water drainage
  - 5      Parking, serving, etc
  - 6      Soft landscaping scheme
  - 7      Landscaping works
  - 8      Boundary treatments
  - 9      Specified Materials
  - 10     CEMP
  - 11     Biodiversity Improvements
  - 12     Electric car charging points

2.0      **SUMMARY OF APPLICATION**

2.1      Provision for self-build plots was acknowledged during the outline application (18/00363/OUM) and secured via the S106 agreement. In the subsequent reserved

matters (19/00447/RMM), plots 117, 116, 115, 114 were formerly allocated as self-build. In accordance with the S106 agreement, this application seeks confirmation that the Clause of Part 4 of the Third Schedule has been complied with and the self-build plots can be transferred to market dwellings.

- 2.2 As such permission is sought for the construction of four market dwellings with associated parking, garage and landscaping. The dwellings proposed are house types which are already approved on the surrounding residential development. Plots 117 and 114 are house type Wilton and Plots 115 and 116 are house type Hallam. Since the submission of the application, works have commenced on the site to lay the footings and initial brick work of the dwellings.
- 2.3 The application has been called into Planning Committee by Councillor J Schumann and Councillor Huffer as it was felt the application would benefit from being put back before the committee for their consideration.
- 2.4 The full planning application, plans and documents submitted by the Applicant can be viewed online via East Cambridgeshire District Council's Public Access online service, via the following link <http://pa.eastcambs.gov.uk/online-applications/>.

### 3.0 PLANNING HISTORY

#### 3.1

18/00363/OUM	Outline planning permission with all matters reserved except for access for the erection of up to 125 dwellings including affordable housing, land to be reserved for nursery use (Use Class D1), open space including an extension to the recreation ground, play areas, sustainability drainage features and associated infrastructure including foul sewage pumping station	Approved	08.11.2018
19/00447/RMM	Reserved Matters for the construction of 121 dwellings and associated works following approval of outline planning permission 18/00363/OUM	Approved	06.12.2019
19/00447/NMAB	Non material amendment to application 19/00447/RMM for Reserved Matters for the construction of 121 dwellings and associated	Accepted	03.11.2020

works following approval of outline planning permission 18/00363/OUM seeking to reduce the entrance footpath width from 3m to 2m as previously approved under application 18/00363/OUM

19/00447/NMAC	Non material amendment in regards to agreed materials as detailed in conditions 1 and 4 to previously approved 19/00447/RMM for Reserved Matters for the construction of 121 dwellings and associated works following approval of outline planning permission 18/00363/OUM	Accepted	27.10.2020
19/00447/NMAD	Non-material amendment to application 19/00447/RMM for Reserved Matters for the construction of 121 dwellings and associated works following approval of outline planning permission 18/00363/OUM seeking to substitute some of the approved plots and consequential layout amendments	Accepted	14.05.2021

#### 4.0 THE SITE AND ITS ENVIRONMENT

4.1 The application site forms four plots within the wider Bloor Homes development off Fordham Road which comprises 125 dwellings. The residential development is partially occupied and partially still under construction. The site is situated outside the defined development for Isleham. To the south-west of the site are residential dwellings which are accessed off Hall Barn Road. To the north-west, north-east and south-east are the residential properties approved as part of applications 18/00363/OUM and 19/00447/RMM and are currently under construction.

#### 5.0 RESPONSES FROM CONSULTEES

5.1 Responses were received from the following consultees and these are summarised below. The full responses are available on the Council's web site.

**Parish - 7 December 2021**

As a result of their initial consultation and specifically their dialogue with the residents of houses bordering this development Bloor Homes assured residents that their properties would not be overlooked. As a result, Bloor Homes specifically agreed to only construct bungalows along the boundary with existing properties on Hall Barn Rd. This proposal is clearly not within the spirit of that commitment and will clearly affect both the light and privacy of at least three existing premises: 35a, 35b and 41 Hall Barn Rd

Similarly, we regard some of the design drawings to be misleading.

- While there is a 5m buffer zone between the gardens of the existing and new properties Bloor themselves have insisted on a 2.6 m growing height restriction, yet the updated street scene clearly shows trees taller than the houses themselves growing ( we can only assume) in this zone
- The 27.6m gap identified between the old and proposed new properties does not take into account the conservatory(s) built onto the existing houses
- The ground level for the new houses (actually the entire site) is unquestionably higher than that of the existing properties and this will exasperate the overlooking and loss of light to these properties

It would therefore be our expectation that Bloor homes honors their commitment to the existing residents and redesigns these properties as single story /dormer bungalows

**Lead Local Flood Authority - 4 February 2022**

We have reviewed the following documents:

- Planning Statement, Pegasus Group, Ref: P21-0809, Dated: November 2021

Based on these, as Lead Local Flood Authority (LLFA) we have no objection in principle to the proposed development.

The above documents demonstrate that surface water from the proposed development can be managed within the wider scheme. The proposals covering the wider planning permission include these plots within the attenuation volumes accounted for and therefore there will be capacity for these dwellings within the proposed and approved wider surface water system.

We request the following condition is imposed:

**Condition**

The surface water drainage scheme shall be constructed and maintained in full accordance with the Planning Statement as submitted by Pegasus Group (ref: P21-0809) dated November 2021.

**Reason**

To prevent an increased risk of flooding and protect water quality

**Ward Councillor J Schumann – 24 January 2022**

This is a significant shift from what was previously (indicatively) agreed at outline stage and therefore I would be inclined to have this put back before the committee for their consideration.

Unless Cllr Hunt feels differently I would like this item to come to a future committee meeting. I am however, mindful that committee is a costly forum and the agendas can sometimes be lengthy so if this is not supported I will speak with Cllrs Huffer and Goldsack and see whether they feel I should reconsider.

**Ward Councillor Huffer – 2 February 2022**

After discussion with the Chair of Isleham Parish Council, I would be grateful if this item could be called into committee, as there is much local anger about this situation and I feel that the application would benefit from a public airing.

**Waste Strategy (ECDC) - No Comments Received**

**Local Highways Authority - 8 December 2021**

I do not object to this application. The proposals are consistent with the wider development which benefits from existing permissions.

The applicant should however ensure that detail aligns with CCC's Housing Estate Road Construction Specification so that these four dwellings do not compromise any potential adoption agreements for the wider site.

**CCC Growth & Development - No Comments Received**

**ECDC Trees Team - 24 January 2022**

No tree related objections but please condition the submission of a suitable soft landscaping scheme.

**Environmental Health - No Comments Received**

**The Gardens Trust - No Comments Received**

- 5.2 A site notice was displayed near the site on 29 November 2021 and a press advert was published in the Cambridge Evening News on 2 December 2021.
- 5.3 Neighbours – Six neighbouring properties were notified and the responses received are summarised below. A full copy of the responses are available on the Council's website.

Self Build

- Originally plots 114, 115, 116, 117 were to be offered as self-builds, but no discussions were entertained at the time as to the details of these builds. It is now apparent that no offers were accepted and now Bloor Homes wish to build these properties.
- Bloor initially stated they would build bungalows adjacent to Hall Barn Road - Bungalows in key locations to reduce the impact on existing adjacent dwellings.'
- Andrew Phillips, Planning Officer, stated to the Planning Committee in considering 19/00447/RMM, in Agenda Item 3, date 6 Nov 2019, "it was noted Bloor had created a Buffer Zone and Bungalows were placed along the rear of the existing properties of the Briars and the distance between them would stop the existing dwellings overlooking future residents and protect residential amenity. Existing

vegetation would be strengthened to the rear of the properties, and the self-build would be assessed when reserve matters were submitted.

### Residential Amenity

- Parish Council were supportive of the properties subject to Bungalows being built where homes back onto Hall Barn Road. Bloor Homes stated that bungalows were to be built in key locations (including 33, 29a, 29b The Briars and thus so should include without prejudice 35a, 35b and 41 which are in similar proximity) to reduce the adverse impact on existing adjacent dwellings. It seems discriminatory to consider two storey plots when they have been determined as unsuitable along Hall Barn Road.
- The two storey properties will result in overlooking, overbearing, loss of privacy and loss of natural light from the Spring/Summer morning light.
- The base of the build seems to be at least a foot higher than our (No.35A) ground level, meaning the height of these will be unacceptable.
- There will be a great impact of 'Glare' from the house lights.
- Two storey houses are currently being built on plots 112 & 113 between the bungalows and back onto No.43, 45 and 47 Hall Barn Road which have very long gardens.
- Mr. Eburne the then Planning Director for Bloor stated "Bloor had 5\* accreditation – and neighbours could be assured that the relationship with neighbouring properties would be respected. There would be no overlooking or overbearing.
- Inappropriate design, scale and height of the two storey houses.
- The properties will be intrusive.
- The unilateral removal of the screening condition and the already established unsuitability of two storey buildings, in close proximity, on this land, must be assessed in the correct context and in the interest of protecting our privacy and amenity.

### Landscape Buffer

- Bloor homes agreed to offer the buffer land between Hall Barn Road dwellings and the new constructions for the Hall Barn residents to manage and secure.
- The expectation was to plant trees and shrubs to screen the development, however when the day came to sign legal documents, Bloor stated we could not grow anything higher than 1.8m (3.2ft) in the buffer zone. We (Hall Barn Road residents) objected as it would not screen the estate. After further discussion, the Board of Bloor Homes decided to increase the height of planting to 2.6m (8.5ft) or else they would not sell the land. If one party had continued to object to this the whole transfer would have fallen.
- The properties will have a greater impact since Bloor Homes transferred the "Buffer Zone" to the Hall Barn Road residents adjacent to their building site.
- In the document P18-1261\_29A "Design and Access Statement" para 1.10 Landscaping; it states the following: "The scheme will benefit from the landscaping proposals approved as part of the main RM (19/00447/RMM) application. Notably the 5m landscaping buffer with additional planting at its site along the western site boundary, where the proposed dwellings back onto the rear boundaries of the adjacent dwellings." They are now not able to plant in the buffer zone and we are not able to screen, as Bloor's has committed us to agreeing the above 2.6m which does not give adequate screening.

- In the document P18-1261\_30 sheet A, the sketch Site Section is showing a cross section from 35B Hall Barn Road through the Buffer, then to a proposed new build Plot 116. The sketch of 35B is not representative and does not show the built on conservatory.
- The streetscene illustration demonstrates the properties will have trees to the rear and growing above the height of these houses, assumedly growing in the buffer zone. This gives a false impression given the restraints in the planting they placed on neighbours.
- The amended documents makes only a minor change to acknowledge the transfer of the Buffer Zone.

#### Other Matters

- As neighbour Bloor Homes contact has been non-existent.
- Bloor have already built the foundations for the four properties.

### 6.0 The Planning Policy Context

#### 6.1 East Cambridgeshire Local Plan 2015

GROWTH 2	Locational strategy
GROWTH 3	Infrastructure requirements
GROWTH 5	Presumption in favour of sustainable development
HOU 1	Housing mix
HOU 2	Housing density
HOU 3	Affordable housing provision
ENV 1	Landscape and settlement character
ENV 2	Design
ENV 4	Energy and water efficiency and renewable energy in construction
ENV 7	Biodiversity and geology
ENV 8	Flood risk
ENV 9	Pollution
COM 7	Transport impact
COM 8	Parking provision

#### 6.2 Draft Isleham Neighbourhood Plan

Policy 1a	Housing Growth
Policy 2	Isleham's Development Envelope
Policy 3	Character and Design
Policy 7	Wildlife & Habitats
Policy 10	Car Parking
Policy 11	Cycle Parking & Storage

#### 6.3 Supplementary Planning Documents

Design Guide  
 Developer Contributions and Planning Obligations  
 Contaminated Land - Guidance on submitted Planning Application on land that may be contaminated  
 Flood and Water

6.4 National Planning Policy Framework 2021

- 2 Achieving sustainable development
- 5 Delivering a sufficient supply of homes
- 9 Promoting sustainable transport
- 12 Achieving well-designed places
- 14 Meeting the challenge of climate change, flooding and coastal change
- 15 Conserving and enhancing the natural environment

6.5 Planning Practice Guidance

7.0 PLANNING COMMENTS

7.1 The main considerations of this application are: principle of development, impact on highways safety, residential amenity, biodiversity and impact on visual appearance and character of the wider area. Outline planning permission was granted under 18/00363/OUM for up to 125 dwellings and following this an application was received for the reserved matters for 121 of those dwellings as four plots were excluded for self-build. A number of non-material amendments have been received since the reserved matters approval, which have altered minor aspects of the wider development but nothing specifically related to the four self-build plots.

7.2 Neighbourhood Plan

7.2.1 Neighbourhood planning was introduced in England through the Localism Act 2011 with legislation coming into effect in April 2012 through the Neighbourhood Planning (General) Regulations 2012. The Neighbourhood Planning Act 2017 states that Section 70 (2) of the Town and County Planning Act 1990 is to be amended to read as follows:

- ‘In dealing with such an application [for planning permission] the authority shall have regard to:
- (a) the provisions of the development plan, so far as material to the application,
  - (aza) a post-examination draft neighbourhood development plan, so far as material to the application
  - (b) any local finance considerations, so far as material to the application, and
  - (c) any other material considerations’

7.2.2 The draft Neighbourhood Plan contains a number of policies which are applicable to this current proposal, in particular Policy 1a - Housing Growth and Policy 2 – Isleham’s Development Envelope. Other policies which would apply to the development are Policy 3 – Character and Design, Policy 7 – Wildlife & Habitats, Policy 10 – Car Parking and Policy 11 – Cycle Parking and Storage. Policy 2 – (Isleham’s Development Envelope) has a modified development envelope from that within the East Cambridgeshire Local Plan 2015 and in accordance with map 5 the

site is within the settlement boundary. Whilst all of these policies are applicable to this proposal, they are only considered to have moderate weight.

7.2.3 The 'draft' Isleham Neighbourhood Plan (RNP) has been published for public consultation and recently independently examined. The Council has now updated the Isleham Neighbourhood Plan to reflect the examiner's recommendations. The Neighbourhood Plan Referendum will be held on Thursday 28 April 2022, and therefore is only regarded having moderate weight.

### 7.3 Principle of Development

7.3.1 Policy GROWTH 1 identifies the level of growth required within the district over the Local Plan Period. This includes the housing requirement for the district. Policy GROWTH 1 is accepted by the Council as being out-of-date as it uses an out of date housing requirement figure, and consequently this has triggered the preparation of the 'single issue review' of the Local Plan, in order to bring GROWTH 1 back in date. That updating of the policy remains at a relatively early stage, and therefore little weight should be given to its emerging content.

7.3.2 Policy GROWTH 2 of the Local Plan 2015 provides the locational strategy for development within the district and provides a hierarchy for the location of housing development. That hierarchy seeks to focus the majority of development on the market towns of Ely, Soham and Littleport. It provides for more limited development within villages with a defined development envelope. The policy states that outside defined development envelopes, development will be strictly controlled to protect the countryside and the setting of settlements and will be restricted to the exceptions listed within the policy.

7.3.3 The weight to be given to policy GROWTH 2 is a matter of judgement for the decision maker. An important factor is the consideration of whether the Policy is "out of date" and the allied question of whether the policy is consistent with NPPF for the purposes of paragraph 219 of the NPPF. Applying national policy, there are three main reasons it could be out of date, as follows:

- (a) If the Council cannot demonstrate a Five Year Land Supply (NPPF 11d, footnote 8) This is not the case. The Council can demonstrate a healthy supply of deliverable homes, well in excess of five years' worth, and this position has persistently been agreed by recent Inspector appeal decisions;
- (b) If the Council 'fails' the Housing Delivery Test. This is not the case. The Council presently sufficiently 'passes' the Test; or
- (c) If the Policy is considered 'out of date' on a separate basis. This has been defined by the Courts as "have been overtaken by things that have happened since it was adopted, either on the ground or in some change in national policy, or for some other reason (*Bloor v SSCLG* [2014] EWHC 754 (Admin); [2017] PTSR 1283). However the courts have further noted "The acid test in relation to whether or not a policy is out of date is, it will be recalled, the extent to which it is consistent with the Framework." (*Gladman Developments Limited v SSHCLG and Central*

*Bedfordshire* [2019] EWHC 127 (Admin), [34]). Datedness will always be a “*case-sensitive exercise*” (*Gladman*, [36]) and will “*encompass the manner in which a policy operates in relation to the determination of a particular application*” (see *Ewans v Mid Suffolk District Council* [2021] EWHC 511, [47]).

- 7.3.4 The Council has considered the approach taken in recent appeal decisions, noting that each case must always turn on its specific facts.
- 7.3.5 In APP/V0510/W/21/3282449 Land to the North East of Broad Piece, Soham (dated 11 February 2022), the Planning Inspector found that policy GROWTH 2 was out-of-date in respect of a proposal for housing on the edge of Soham, a market town identified as a location for growth. That site was also within a broad location for housing (identified in the supporting text to policy GROWTH 4), where housing was anticipated to come forward during the Local Plan period (2011-2031). He concluded that as the housing requirement in GROWTH 1 was out of date and therefore uncertain, it was not clear that adequate housing could be provided in settlements and via allocations. The Inspector found that general objectives of GROWTH 2 “to manage patterns of development and protect the setting of settlement were good ones” and consistent with the NPPF, however in the specific location of the Appeal Site he found that continued strict application of GROWTH 2 was not justified given that the Local Plan anticipated housing in that location and at the market towns. The Inspector also gave weight to the fact that, while outside the development envelope for Soham, the proposal was considered to comply with the development plan as a whole, including the location of the development at one of the three market towns, consistent with GROWTH 2. It is important to appreciate that this was a case where no other development plan conflicts were identified, including notably in respect of landscape. The Inspector therefore did not have to consider these specific wider considerations in assessing the datedness of the policy and its consequent consistency with NPPF.
- 7.3.6 Elsewhere recent Inspectors have found policy GROWTH 2 up-to-date, albeit in respect of proposals for housing on the edge of villages (i.e. not market towns) with such settlements falling lower down the locational strategy hierarchy detailed within GROWTH 2.
- 7.3.7 Turning to the facts of this particular application, the proposal is located outside of the development envelope, and is not one of the exceptions listed in GROWTH 2. The proposal is also not located at one of the three market towns, where growth is directed to by GROWTH 2. It is, therefore, contrary to policy GROWTH 2, however, it is within the development envelope of the Isleham Neighbourhood Plan which can be afforded moderate weight due to the point it has now reached (i.e. referendum in April).
- 7.3.8 The Council have considered whether GROWTH 2 (including development envelopes derived by it) should be considered out of date or not, and in particular in doing so considering recent appeal decisions on this matter. A number of appeal decisions in settlements beyond the market towns have indicated that GROWTH 2 is up to date.

- 7.3.9 The Council has carefully considered all of these decisions and in particular whether the circumstances are similar to those in the recent appeal decision in Soham (in respect of the nature of the conflict). The Council considers that the Soham decision is distinguishable.
- 7.3.10 All recent decision makers (including the Appeal Inspectors) have concluded that the locational strategy of the policy is consistent with the NPPF. As the Soham Inspector observed at DL17: “general objectives of the policy to manage patterns of growth and protect the setting of towns and villages are good ones that are consistent with the Framework”. For the purposes of this application, GROWTH 2 is considered up to date, however the moderate weight of the Isleham Neighbourhood Plan and other material considerations have to be applied.
- 7.3.11 The development of these four plots as self-build dwellings has been previously agreed through the outline permission 18/00363/OUM. However, the reserved matters of those plots didn’t come forward within the time period of three years as set out by condition 2 and as such the outstanding principle from the outline permission expired. As such the site no longer has extant permission for these properties, but previously four residential properties in this location has been accepted.
- 7.3.12 An Appeal Decision (APP/W0530/W/20/3253436) in a neighbouring authority, evidences a situation where a site was outside of the defined development envelope and therefore an area of countryside, however the development sat amidst an area of modern housing. The Planning Inspector noted the surroundings of the site were subject to large housing developments, meaning the development would occupy a gap in between existing housing. As such the Inspector determined due to the surrounding context the site had more affinity with the suburban form surrounding and did not result in encroachment to the countryside. The Appeal Decision shares similarities to the site in Isleham as the four plots are enclosed by residential development.
- 7.3.13 Furthermore, a recent Appeal Decision (APP/V0510/W/21/3283673) within East Cambridgeshire allowed a single dwelling outside of the defined development envelope under policy GROWTH 2. Since defining the settlement boundaries as per the 2015 Local Plan, the surrounding area to the appeal site had seen approvals for small residential developments. As such the Planning Inspector advised the development boundary no longer reflected the current situation. The Inspector stated that whilst contrary to policy GROWTH 2, the change in the character of the area amounts to a material consideration that justifies a decision at variance with the development plan.
- 7.3.14 For the current application GROWTH 2 is considered up to date and as such the presumption in favour of sustainable development is not engaged. The proposal conflicts with GROWTH 2 due to the site’s location outside of the Local Plan development envelope and forms a departure development. However, in accordance with s38(6) of the Planning and Compulsory Purchase Act 2004, there are a number of material considerations which are afforded weight in the consideration of the application. Whilst the site is outside the Local Plan’s defined development envelope it is within the updated development boundary as per the Isleham Neighbourhood Plan, which is given moderate weight. Furthermore, the

surrounding area has evolved through permissions 18/00363/OUM and 19/00447/RMM since the development boundary was defined, meaning the site is now enclosed by residential dwellings. In addition, the appeal decision within East Cambridgeshire (paragraph 7.3.17) notes the importance of considering changes to the character of an area and when defining Local Plan boundaries no longer reflect the existing situation. The development of these four plots on the Bloor Homes site would not result in encroachment to the countryside, nor would it significantly change the character of the area as the site is enclosed by residential development. Therefore, the development would protect the countryside and the setting of the village, consistent with the Framework. In review of all material planning considerations the principle of four residential dwellings on the site is acceptable.

7.3.15 It should be noted that all other local plan policies and relevant material considerations remain relevant and form part of the planning balance for this application.

#### 7.4 Self-Build Plots

7.4.1 Application 18/00363/OUM acknowledges the requirement for self-build plots on the wider development site to ensure the proposal was in accordance with policy HOU 1 and these were secured through the s106 agreement. Neighbour comments have expressed concern over the scale of the self-build plots and referenced the previous reserved matters application.

7.4.2 Part 4 of the Third Schedule of the s106 agreement relates to self-build dwellings and states the following:

- 1.1 Prior to first occupation of 75 % of the Market Housing Units the Self-Build Plots shall have all services and vehicular access provided.
- 1.2 Prior to the first Occupation of 75% of the Market Housing Units the Self-Build Plots shall only be marketed for sale at full market value to individuals on the Self-Build Register.
- 1.3 If after (whichever is the earlier of); (a) two years from the commencement of marketing pursuant to paragraph 1.2; or (b) the sale of 50% of the Market Housing Units within the Site (excluding the Self-Build Plots), contracts for the sale of any Self-Build Plots have not exchanged, the restrictions and obligations in this Part 4 shall no longer apply and any Dwellings built on the Self-Build Plots may be sold on the open market free from any encumbrance and the provisions within this Part 4.

7.4.3 The Planning Statement illustrates the developer's compliance with Clause (b) of 1.3, as a drawing and letter has been provided from the Design and Technical Director at Bloor Homes. The letter dated the 29<sup>th</sup> October 2021 and drawing attached as Appendix 1 to the Planning Statement illustrates 43 plots which have been sold or exchanged. However updated information received during the lifetime of the application advise Bloor Homes have sold/exchanged on 52 Plots which exceeds the 50% threshold. Furthermore, the agent has confirmed that

none of the self-build plots have reached a point where contracts have exchanged. In terms of the marketing, once the plots were available for sale the Applicant provided details to the Council. Sally Bonnet (ECDC Corporate Unit Manager) confirmed the council were notified of the plots and following this the information was sent to those registered on the Self-build register at the time (8 people) on 28/06/2021. The applicant advised that details of the self-build plots were also made available to prospective purchasers at the sales office on the site. The applicant contacted the Council on the 12<sup>th</sup> July 2021 seeking the removal of the self-build plots from the register with immediate effect.

7.4.4 Clause 1.3 only requires one of the (a) or (b) to be complied with and stipulates whichever is the earlier. The developer has demonstrated compliance with Clause 1.3 (b) and such it is considered that the plots can be released as dwellings which the developer can build out and are no longer required to be self-build plots.

## 7.5 Residential Amenity

7.5.1 Paragraph 130(f) of the NPPF requires proposals to ensure that they create safe, inclusive and accessible development which promotes health and wellbeing and provides a high standard of amenity for existing and future users. Policy ENV2 of the East Cambridgeshire Local Plan 2015 requires proposals to ensure that there are no significantly detrimental effects on the residential amenity of nearby occupiers. Furthermore, policy 3 of the Isleham Neighbourhood Plan seeks for development to not result in unacceptable impacts on the amenity of occupants of neighbouring or nearby properties.

7.5.2 Neighbour comments expressed concern over the amenity impacts of the dwellings, advising of intrusive, overlooking, overbearing, loss of privacy, glare from the lights and loss of natural light from the Spring/Summer morning light. The comments describe the proposal as inappropriate design, scale and height, with the base of the build being a foot higher than No.35a Hall Barn Road.

7.5.3 It is acknowledged that the two storey properties will have views towards the dwellings on Hall Barn Road and an element of overlooking will be introduced, however the degree of this overlooking is not considered to significantly detrimental. Both the Wilton and Hallam designs include two habitable windows and one bathroom/en-suite window to the rear.

7.5.4 The Design Guide SPD advises the distance between rear inter-visible windows should be a minimum of 20 metres (65.6ft); this will require the rear elevation of any dwelling to be located at least 10 metres (32.8ft) from the rear boundary. All four dwellings rear elevations will be situated over 10m (32.8ft) from the rear boundary and the distance between the proposal and the three directly opposite properties exceeds the 20m (65.6ft) as stipulated by The Design Guide SPD. The distance between inter-visible rear windows of the three properties and the four plots are the following:

- Plot 117 is approximately 30.4m (99.7ft) to the rear elevation of No.35a.
- Plot 116 is approximately 25.1m (82.3ft) to the edge of the conservatory and 28.1m (92.1ft) to the rear elevation of No.35b.

- Plot 115 is approximately 26.8m (87.9ft) to the rear elevation of No.41.
- Plot 114 is approximately 23.6m (77.4ft) to the rear of the conservatory and 26.9m (88.2ft) to the rear elevation.

7.5.5 Taken into the account of separation distances between the proposed dwellings and the compliance with The Design Guide, the two first floor windows on each property's rear elevation are not considered to result in detrimental impacts to residential amenity, through significant overlooking or detrimental loss of privacy. In addition, the new properties are not considered to result in significant amenity impacts as a result of glare from the windows.

7.5.6 The dwellings are 10m (32.8ft) from the rear boundary and the layout follows the pattern of built form across the wider development. It is considered the location, layout and scale of the properties would not result in detrimental overshadowing, overbearing, oppressive or intrusive impacts to the surrounding occupiers either existing or future residents of the new dwellings. The comments reference the land levels being raised on the site, however the proposal doesn't illustrate a rise in ground levels for the plots. Furthermore, confirmation was sought from the agent that the ridge heights of the proposed are in line with the adjacent two storey dwellings on plots 113 and 112. It was confirmed that new dwellings will sit at 8491mm whereas the adjacent plots at 8494mm, meaning the dwellings are marginally lower. It is considered that the proposed properties comply with policy ENV2 of the Local Plan, policy 3 of the Neighbourhood Plan and The Design Guide SPD, as well as chapter 12 of the NPPF.

7.5.7 Comments received state the unilateral removal of the screening condition and the already established unsuitability of two storey buildings, in close proximity, on this land, must be assessed in the correct context and in the interest of protecting our privacy and amenity. The comments received describe the application as discriminatory when two storey properties have been determined as previously unsuitable. Whilst revisions were made on the wider development to the corner plots, making them bungalows, the previous outline application (18/00363/OUM) did still consider two storey properties acceptable along this south-western boundary.

7.5.8 Condition 14 applied to the outline planning permission (18/00363/OUM) required at least 5% of all the dwellings to be provided on the site to be bungalows (single storey dwellings) and this has been satisfied by the wider development, therefore permitting two storey properties on this current application site would not be contrary to the previous permission. In addition, drawing CSA/2946/111 Rev B from the outline permission includes parameter heights and advises this section of the site could incorporate two storey properties. Therefore, the current application is not proposing a scheme which is considered to be contrary to the matters permitted under the previous permissions on the site.

## 7.6 Character and Appearance

7.6.1 Paragraphs 126 and 130 of the NPPF seeks to secure high quality, beautiful and sustainable buildings visually attractive development which improves the overall quality of an area and are visually attractive as a result of good architecture, layout and appropriate and effective landscaping. Policy ENV2 requires all development proposal to be designed to a high quality, enhancing and complementing the local distinctiveness and public amenity by relating well to existing features and introducing

appropriate new designs. Furthermore, Policy 3 the Neighbourhood Plan seeks for development proposals to deliver high quality through responding to important characteristics of the surrounding area including views, buildings and their materials and design features, building heights and space between buildings.

- 7.6.2 The proposal is for four detached two storey dwellings, split into two different house types which are represented elsewhere within the surrounding development. Plots 117 and 114 are proposed as the Wilton house type, whereas the central plots of 116 and 115 are the Hallam house type. The dwellings will front the internal access road and complement well to the existing layout and line of built form. Adjacent to Plot 117 is a bungalow and whilst the current property is two storey, the scale is not considered to be visually overpowering and reflects the relationship between plots 112 and 111. Furthermore, the four properties will relate well to the two storey dwellings to the south-east as they share similarities in design and form. The proposed dwellings are of a design and scale which is in keeping and complementary to the surrounding house types. It is considered the dwellings will read well within the wider streetscene.
- 7.6.3 The proposed garages for each property are in accordance with the Design Guide SPD, as these are situated to the side or rear. It is considered the positioning of the garages will not compete with host property and remain subservient in appearance within the streetscene. In addition, the parking is to the side of the properties meaning the streetscene when approaching the dwellings will not be dominated by parking.
- 7.6.4 Policy ENV1 of the Local Plan 2015 requires proposals to ensure that location, layout, scale, form, massing, materials and colour create positive, complementary relationships with existing development and enhance where possible. Proposed materials for the properties include Forterra Village Harvest Multi brick for majority of the external walls, with finer architectural details in Ibstock Holmwood Natural. Roof tiles will be Marley Modern Smooth Grey and fenestration materials include UPVC white windows with a Card Room Green door. The materials will be complementary to the adjacent bungalows and two storey properties to the north-west, north-east and south-east, as aspects from each of the surrounding dwellings are mirrored within the proposal.
- 7.6.5 The four dwellings with associated parking and garages are considered to form a complementary and cohesive addition to the wider development. As such the proposal is compliant with policies ENV1 and ENV2 of 2015 Local Plan, policy 3 of the Isleham Neighbourhood Plan, The Design Guide SPD and Chapter 12 of the NPPF.

## 7.7 Highway Safety and Parking Provision

- 7.7.1 Paragraph 110 of the NPPF requires safe and suitable access to the site for all users. Local Plan policy COM7 requires proposals to provide a safe and convenient access to the public highway. The application demonstrates the access road to serve the dwellings and the agent has confirmed the access road is implemented, which was confirmed by the Officer site visit. The Local Highway Authority raise no objection to this application, advising the proposal is consistent with the wider development which benefits from existing permissions. Following the request from the LHA, the agent has confirmed the application aligns with CCC's Housing Estate Road Construction Specification. The properties are considered to have a safe, suitable and convenient access.

7.7.2 Policy COM8 requires proposals to provide adequate car and cycle parking provision. Each residential property delivers two off street car parking spaces to the side of the properties on the driveways. In addition, the parking plan illustrates each property having the availability for parking within the garages and the internal dimensions of the outbuildings (3.1m x 6m) do support this. Alternatively, the garages can be utilised for secure cycle parking. It is considered the proposed number of spaces complies with the parking standards set out within policy COM8 and policy 10 of the Neighbourhood Plan. To further ensure the developments compliance to policy 10 of the Neighbourhood Plan a condition will be applied seeking the facilities for electric vehicle charging points.

## 7.8 Drainage

7.8.1 Policy ENV 8 states that all developments and re-developments should contribute to an overall flood risk reduction. The policy states that development would not be permitted where it would intensify the risk of flooding for the development or surrounding properties elsewhere, it should also take into account climate change allowances and surface water runoff. The application confirms foul water will be via the mains sewer and surface water drainage will be handled via sustainable drainage system.

7.8.2 Application 18/00363/DISC discharged the details for the surface water and foul water drainage strategy for the wider site, however the self-build plots drainage details remain unknown at that stage. Drawing EA129-EN-090 C from 18/00363/DISC illustrates foul and surface water pipes are running under the access road and therefore in proximity to the site. The Planning Statement includes a letter from Withers Design Associates confirming the drainage scheme designed for the site accounts for the self-build plots and connection points for the four plots have been included. The letter advises that in their opinion they cannot foresee any changes or issues with these Plots on the Site. Comments from the Lead Local Flood Authority have confirmed they raise no objection in principle and that the proposals covering the wider planning permission include these plots within the attenuation volumes accounted for. As such the previously approved drainage under 18/00363/DISC offers the capacity for the four plots, however a condition is required to illustrate the dwellings connection to the wider system. The condition requesting the foul and surface water drainage details should deliver the information sought by the recommended condition from the Lead Local Flood Authority. The condition wording has been altered due to the development already commencing on site. It is considered the information supplied is sufficient to address drainage for the new dwelling and is compliant with policy ENV8 and chapter 14 of the NPPF.

## 7.9 Contamination

7.9.1 All applications for residential use are considered particularly sensitive to the presence of contamination. Under application 18/00363/OUM the entire site was subject to a Geo-Environmental and Geotechnical Site Assessment report and a Phase I Contamination Assessment. The Scientific Officer accepted the findings of those reports and confirmed the site appears to be at low risk of land contamination and no further investigation was necessary. Therefore, it is considered the matters of contamination were handled under application 18/00363/OUM and only the standard condition for unexpected contamination in the event the application is recommended

for approval will be applied. Subject to the relevant conditions being appended, the proposal accords with Policy ENV9 of the Local Plan 2015.

## 7.10 Biodiversity Net Gain

7.10.1 Paragraph 174 (d) of the NPPF seeks for developments to contribute and enhance the natural environment by minimize impacts and providing net gains for biodiversity. In addition, the Natural Environment SPD seeks to establish biodiversity net gain through policy NE6. The Local Plan 2015 includes policy ENV7 which seeks to deliver a net gain in biodiversity, proportionate to the scale of development proposed, by creating, restoring and enhancing habitats and enhancing them for the benefit of species. In addition, the Neighbourhood Plan policy 7 seeks for development proposals to achieve an overall net gain in biodiversity, in accordance with provisions set out in the NPPF and the Environment Act 2021.

7.10.2 The site is part of wider development and as part of the outline permission (18/00363/OUM) extensive ecology reports where undertaken. However, the development is still required to deliver a biodiversity net gain through the four properties and as such a Preliminary Ecological Appraisal report has been supplied for the site. The Appraisal makes a number of recommendations to deliver a net gain through the development, including the installation of two integrated bat boxes in each dwelling and a total of eight swift boxes mounted in groups of four on separate buildings. Other recommendations included hedgehog highways and bee bricks. The Trees Officer has raised no objection and but has sought a condition for the submission of a suitable soft landscaping scheme. With the proposed measures it is considered the development will contribute and enhance the natural environment and create new habitats to support biodiversity gain, subject to the compliance condition being added. As such the proposal complies with policy ENV7 of the Local Plan, policy 7 of the Neighbourhood Plan and The Natural Environment SPD.

## 7.11 Efficiency and Renewables

7.11.1 The recently adopted Climate Change Supplementary Planning Document predominantly focusses on providing additional guidance to the implementation of Local Plan Policy ENV 4 – Energy and water efficiency and renewable energy in construction. Policy ENV 4 states all proposals for new development should aim for reduced or zero carbon development in accordance with the zero carbon hierarchy: first maximising energy efficiency and then incorporating renewable or low carbon energy sources on-site as far as practicable. The Planning Statement contains an Energy Statement Technical Note/Addendum which advises:

*Briary Energy undertook an Energy Strategy Statement for 125 plots at Fordham Road, Isleham, dated July 2019, which calculated the baseline energy demand and carbon emissions for the site, and determined an appropriate renewable energy strategy in order to achieve a 19% carbon emission reduction on site.*

*The 2019 Energy Statement included as part of the carbon emission and renewable energy strategy four plots that were to be assigned to be self-build properties. Appropriately sized house types from existing Bloor Homes housing stock were used in place of these units for the purpose of the planning*

*application, to ensure that the carbon emissions calculated were valid for the entire development.*

*This parcel has been reassigned and will now include two Wilton and two Hallam house types. Both house types have been assessed using the SAP 2012 methodology and we can confirm that the impact on both the overall carbon emission figures for the site will be negligible. The stated PV panel target for the development will therefore remain as 85 kWp*

7.11.2 It is considered the four dwellings will adhere to the wider developments efficiency targets and the properties will as far possible reduce carbon. The proposal is considered to address policy ENV4 and the Climate Change SPD.

## 7.12 Other Matters

7.12.1 A number of neighbour comments have raised concern over the landscape buffer, particularly highlighting the changes since the original applications were determined and the drawings submitted. The landscape buffer was transferred to the neighbouring properties and has since been subdivided to form curtilage additions to some residents on Hall Barn Road. From the Officer site visit it was noted that nearly all properties on Hall Barn Road which back onto the development have incorporated the additional 5m depth in to the curtilages. As such amended drawings were requested to remove any reference to a separated landscape buffer and any indicative landscaping, with the drawings accurately representing the subdivision of the buffer into the curtilages of the neighbours. Some comments have expressed concern that during the transfer of the land a height restriction was applied at 2.6m which restricts the planting. The Council were not a party to the transfer but are aware of the change in ownership to the land which forms the landscape buffer and should a height restriction have been placed on the transfer at 2.6m then this could interfere with the compliance of condition 6 of the reserved matters application 19/00447/RMM and be contrary to the obligation within the S106. However, those parties directly involved in the transfer may apply to have the restriction removed.

7.12.2 Immediately before the submission of the Committee Report the agent advised that their client has been corresponding with the neighbours and have confirmed that the height restriction in the covenant will be removed as requested by the neighbours. They advised this offer is on the basis of the neighbours providing written confirmation that they are removing their objections; however, their client has confirmed that they would still remove the covenant even if they didn't. No formal withdrawal of neighbour comments had been received prior to or on the 28<sup>th</sup> March 2022 and the removal of the covenant forms a private matter.

## 7.13 Planning Balance

7.13.1 The proposed development has fulfilled the requirements of s106 to allow the release of the self-build plots. The dwellings are not considered to result in significant harm to the residential amenity of surrounding occupiers or harm to the character or appearance of the surrounding development and locality beyond. The proposal will not result in significant harm to highway safety or flood risk and can deliver a biodiversity net gain.

7.13.2 Policy GROWTH 2 has been considered up to date in respect of this application and the proposed development is contrary to the locational strategy contained within GROWTH 2. However, material planning considerations, such as the site's location in the development envelope of the Isleham Neighbourhood Plan (which is afforded moderate weight), the existing surrounding character of residential properties which has evolved since the development envelope boundaries were drawn and recent appeal decisions, are considered to indicate that a departure from the Development Plan is justified. The application is therefore recommended for approval

## 8.0 APPENDICES

### 8.1 Appendix 1: Recommended Conditions

<u>Background Documents</u>	<u>Location</u>	<u>Contact Officer(s)</u>
21/01636/FUL	Molly Hood Room No. 011 The Grange Ely	Molly Hood Planning Officer 01353 665555 molly.hood@eastcambs.gov.uk
18/00363/OUM		
19/00447/RMM		
19/00447/NMAB		
19/00447/NMAC		
19/00447/NMAD		

National Planning Policy Framework -

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/6077/2116950.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf)

East Cambridgeshire Local Plan 2015 -

<http://www.eastcambs.gov.uk/sites/default/files/Local%20Plan%20April%202015%20-%20front%20cover%20and%20inside%20front%20cover.pdf>

APPENDIX 1 - 21/01636/FUL Conditions

- 1 Development shall be carried out in accordance with the drawings and documents listed below

Plan Reference	Version No	Date Received
P18-1261_25	C	10th February 2022
P18-1261_23	B	10th February 2022
P18-1261_24	D	10th February 2022
P18-1261_32	D	10th February 2022
P18-1261_27	C	10th February 2022
P18-1261_28	C	10th February 2022
394.PL-01		10th February 2022
394.PL-06		10th February 2022
394-1.PL-01		10th February 2022
394-1.PL-06		10th February 2022
470.PL-01		10th February 2022
470-1.PL-01		10th February 2022
GL01.PL-01		10th February 2022
P18-1261_26	B	10th February 2022
Preliminary Ecological Appraisal	Version 1	15th November 2021
CEMP		15th November 2021

- 1 Reason: To define the scope and extent of this permission.
- 2 The development hereby permitted shall be commenced within 2 years of the date of this permission.
- 2 Reason: To safeguard the character and appearance of the area, in accordance with policy ENV2 of the East Cambridgeshire Local Plan 2015.
- 3 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported to the Local Planning Authority within 48 hours. No further works shall take place until an investigation and risk assessment has been undertaken and submitted to and approved in writing by the Local Planning Authority. Where remediation is necessary, a remediation scheme must be submitted to and approved in writing by the Local Planning Authority. The necessary remediation works shall be undertaken, and following completion of measures identified in the approved remediation scheme a verification report must be prepared, and approved in writing by the Local Planning Authority.
- 3 Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with policy ENV9 of the East Cambridgeshire Local Plan 2015.
- 4 Within three months from the date of determination a scheme to dispose of foul and surface water should be submitted to and approved in writing by the Local Planning Authority. The scheme(s) shall be implemented prior to the occupation of the dwellings.

- 4 Reason: To prevent the increased risk of flooding and to improve and protect water quality, in accordance with policies ENV2 and ENV8 of the East Cambridgeshire Local Plan 2015. The condition is pre-commencement as it would be unreasonable to require applicants to undertake this work prior to consent being granted and the details need to be agreed before construction begins.
- 5 Prior to first occupation of each dwelling or commencement of use the proposed on-site parking area shall be laid out, demarcated, levelled, surfaced and drained in accordance with the approved plan P18-1261\_26 B and thereafter retained for that specific use.
- 5 Reason: In the interests of highway safety, in accordance with policies COM7 and COM8 of the East Cambridgeshire Local Plan 2015.
- 6 Prior to first occupation or commencement of use a full schedule of all soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. The schedule shall include, planting plans, a written specification; schedules of plants noting species, plant sizes, proposed numbers/densities; and a detailed implementation programme. It shall also indicate all existing trees and hedgerows on the land and details of any to be retained. The works shall be carried out in accordance with the approved details prior to the end of the first planting season following occupation of the development. If within a period of five years from the date of the planting, or replacement planting, any tree or plant (including retained existing trees/hedgerows) is removed, uprooted or destroyed or dies, another tree or plant of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.
- 6 Reason: To assimilate the development into its surroundings, in accordance with policies ENV1 and ENV2 of the East Cambridgeshire Local Plan 2015.
- 7 All hard landscaping works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed in writing with the Local Planning Authority. If within a period of five years from the date of the planting, or replacement planting, any tree or plant is removed, uprooted or destroyed or dies, another tree or plant of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.
- 7 Reason: To assimilate the development into its surroundings, in accordance with policies ENV1 and ENV2 of the East Cambridgeshire Local Plan 2015.
- 8 The boundary treatments hereby permitted shall be constructed in accordance with the details specified on drawing P18-1261\_25 C. The boundary treatments shall be in situ and completed prior to the first occupation on the site. All works shall be carried out in accordance with the approved details and retained thereafter
- 8 Reason: To assimilate the development into its surroundings, in accordance with policies ENV1 and ENV2 of the East Cambridgeshire Local Plan 2015.

- 9 The materials to be used in the construction of the external surfaces of the development shall be either:
  - a. As detailed on drawing P18-1261\_32 D; or,
  - b. Submitted to and approved in writing by the Local Planning Authority prior to their use in the construction of the development.

All works shall be carried out in accordance with the approved details.

- 9 Reason: To safeguard the character and appearance of the area, in accordance with policy ENV2 of the East Cambridgeshire Local Plan 2015.
- 10 Work shall be carried out in accordance with the Construction Environmental Management Plan (CEMP) regarding mitigation measures for noise, dust and lighting during the construction phase. The development on site shall be in accordance with the construction and delivery times as specified in the CEMP and adhered to at all times during all phases.
- 10 Reason: To safeguard the residential amenity of neighbouring occupiers, in accordance with policy ENV2 of the East Cambridgeshire Local Plan 2015.
- 11 The biodiversity improvements outlined in the Preliminary Ecological Appraisal Report Version 1 dated September 2021 shall be installed prior to the first occupation of the hereby approved development and thereafter maintained in perpetuity.
- 11 Reason: To protect species and sites of nature conservation, in accordance with policies ENV2 and ENV7 of the East Cambridgeshire Local Plan 2015 and the Natural Environment SPD, 2020.
- 12 Prior to first occupation of any dwelling a scheme for the provision of facilities for electric plug-in vehicles shall be submitted to and approved in writing by the Local Planning Authority and thereafter, provided prior to first occupation of the dwelling to which it relates.
- 12 Reason: The application has been assessed as acceptable and complying with policy 10 of the Isleham Neighbourhood Plan on this basis.



EAST  
CAMBRIDGESHIRE  
DISTRICT COUNCIL

Minutes of a meeting of the Planning Committee held at 2:00pm on Wednesday 6<sup>th</sup> April 2022 in the Council Chamber at The Grange, Nutholt Lane, Ely, CB7 4EE.

**PRESENT**

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

**OFFICERS**

Rebecca Saunt – Planning Manager  
Maggie Camp – Legal Services Manager  
Caroline Evans – Democratic Services Officer  
Toni Hylton – Senior Planning Officer  
Annalise Lister – Communications Manager  
Andrew Phillips – Planning Team Leader  
Isabella Taylor – Planning Officer  
Angela Tyrrell – Senior Legal Assistant  
Melanie Wright – Communications Officer

**IN ATTENDANCE**

Dr Lau Berraondo (Applicant, Agenda Item 6 / Minute 84)  
Harvey Bibby (Applicant, Agenda Item 6 / Minute 84)  
Alex Clark (Applicant, Agenda Item 5 / Minute 83)  
Michael Hargreaves (Applicant, Agenda Item 7 / Minute 85)  
Gordon Rusk (Objector, Agenda Item 5 / Minute 83)  
Adam Tuck (Applicant, Agenda Item 6 / Minute 84)  
Parish Cllr Richard Radcliffe (Agenda Item 5 / Minute 83)  
Cllr Julia Huffer (Agenda Item 5 / Minute 83)

10 Members of the public.

**79. APOLOGIES AND SUBSTITUTIONS**

Apologies for absence were received from Cllrs Brown and Trapp.

Cllr David Ambrose Smith was attending as a substitute for Cllr Brown.

**80. DECLARATIONS OF INTEREST**

Several Members declared an interest in Agenda Item 6 (21/01694/FUL, Land west of 115 Lancaster Way Business Park, Ely):

- Cllr Every stated that she had spoken to the applicant's agent and to Council Officers whilst researching the proposal, but she remained open-minded.
- Cllr Wilson was a patient of the dental business that was the subject of the application, but remained open-minded.
- Cllr Austen had called-in the item for consideration by the Committee because she had been asked to do so on the grounds of transparency. She remained open-minded.

*2:02pm – Cllr Downey joined the meeting.*

## **81. MINUTES**

The Committee received the Minutes of the meeting held on 2<sup>nd</sup> March 2022.

It was resolved:

That the Minutes of the Planning Committee meeting held on 2<sup>nd</sup> March 2022 be confirmed as a correct record and be signed by the Chairman.

## **82. CHAIRMAN'S ANNOUNCEMENTS**

The Chairman made the following announcements:

- He reminded all interested parties of the importance of abiding by deadlines for speaker registration and submissions of information for Members to consider. Information received less than 48h before the meeting would not be sent to Members since it was important that they all had sufficient time to carefully read and consider all of the details. Pressure or bullying behaviour directed towards Officers would not be tolerated.
- Formal site visits for Committee Members had re-started for this meeting and, whilst not mandatory, were considered to be an essential part of the decision-making process.
- Russell Wignall, Legal Assistant, was leaving the Council. He was thanked for all of his work and offered the Committee's best wishes for the future.
- There would be an additional Planning Committee meeting added to the calendar to consider the Sunnica planning application. The meeting would be held at a venue near to the site and the Sunnica application would be the sole item for debate. It was emphasised that the Council would not be the determining authority for the application; the meeting would be to consider the Council's recommendations as a consultee on the application.

## **83. 21/01636/FUL – LAND ACCESSED BETWEEN 2 & 4 FORDHAM ROAD, ISLEHAM**

Andrew Phillips, Planning Team Leader, presented a report (W170, previously circulated) on behalf of the Case Officer, recommending approval of an application that sought permission for the construction of four market dwellings with associated parking, garages and landscaping, on plots formerly allocated as self-build.

Members were shown maps and satellite images to illustrate the site's location outside the Local Plan's development envelope but within the Isleham Neighbourhood Plan's development envelope. The Isleham Neighbourhood Plan

had been given moderate weight in the assessment of the application. In addition, the site lay within a wider Bloor Homes development and had previously been allocated for four self-build plots. Two house types were proposed, both of which were present on the wider development, and elevations of both were shown.

The main considerations for the application were deemed to be:

- **Principle of development** – the site had previously received permission for four self-build plots, and the proposal had demonstrated compliance with clause 1.3(b) of the s106 agreement regarding the marketing of the plots. The principle of development was therefore considered to be acceptable.
- **Residential amenity** – concerns of overlooking, loss of privacy, glare and overbearing, intrusiveness and loss of light had been received from neighbours. The Design Guide SPD advised that the distance between rear inter-visible windows should be a minimum of 20m. All proposed dwellings would be over 10m from their rear boundary and the distance between the proposed dwellings and the rear elevations of 35a, 35b and 41 Hall Barn Road were 23.6 – 30.4m. The first-floor windows on the proposed properties' rear elevations were therefore not considered to result in detrimental impacts to residential amenity through significant overlooking or detrimental loss of privacy. They were also not considered to result in significant amenity impacts as a result of glare from the windows.
- **Visual impact** – the site was surrounded by residential development and the proposed dwellings were of a design and scale that would be in keeping with, and complementary to, the surrounding Bloor Homes development. The proposed garages for each property were also in accordance with the Design Guide SPD due to their positioning to the side or rear of each dwelling.
- **Highway safety and parking** – there had been no objection from the Local Highways Authority and the proposed dwellings would be accessed from the existing road for the wider Bloor Homes development. There was sufficient vehicle and cycle storage to comply with the parking standards in policy COM8 of the Local Plan and policy 10 of the Isleham Neighbourhood Plan. To further comply with policy 10 of the Neighbourhood Plan, a condition would be applied regarding electric vehicle charging points.
- **Flooding/Biodiversity** – the Lead Local Flood Authority had not raised any objections to the principle of the development. A drainage condition was proposed and the proposal complied with policy ENV8 and the NPPF. The development would deliver various biodiversity enhancements and would comply with policy ENV7 of the Local Plan, policy 7 of the Isleham Neighbourhood Plan, and with the Natural Environment SPD. The landscape buffer had been transferred to the neighbouring properties and the majority of owners had since incorporated the additional 5m into their curtilages.

In summary, the principle of the development was considered to be acceptable and there would be no detrimental impact to residential amenity. There would be no significant or demonstrable harm to the character of the area and the dwellings would be in keeping with the existing house-types on the wider site. The access arrangements and parking provision were acceptable. The application was therefore recommended for approval.

On the invitation of the Chairman, Gordon Rusk read a statement to the Committee as follows:

*“Gordon Rusk 35B Hall Barn Road, Isleham: speaking for residents in 33, 35A, 35B, 41 Hall Barn Road.*

- *Prior to planning consent Bloor have constructed up to 1st floor level.*
- *As stated in today’s report 7.3.11 the reserve matters for these plots did not come before the 3yr time period, therefore, the site has no existing permission for these properties.*
- *Neighbours’ main objections are stated in section 5.3 of the report.*
- *We had no discussion on the plots in 2018/19 even though today’s report 7.5.7 states the 2018 outline application considered two storey properties acceptable.*
- *2019 Bloor stated they would build bungalows in key locations to reduce the impact on existing adjacent dwellings. “No overlooking or overbearing.”*
- *6th Nov 2019 Agenda item 3 noted the buffer zone now curtilages would stop existing dwellings overlooking future residents.*
- *Plots 114 –17 do look directly over 35A, and B, 41 Hall Barn Road there will be a loss of privacy.*
- *Today’s item 7.5.3 states there will be overlooking, but not considered detrimental; we beg to differ living opposite. This is not consistent with the previous decision to change houses to bungalows.*
- *A buffer zone was originally planned in the S106, it would provide privacy, reduce overlooking and overbearing.*
- *Bloor imposed a height restriction 2.6m in the transferred zone this could interfere with the compliance of condition 6 of reserved matters application 2019 contrary to the obligation within the S106. Would the committee remind Bloor of this?*
- *The removal of covenant offer by Bloor in 7.12.2 is not forthcoming and other offers reduced.*
- *We ask the committee to reflect a consistency of consideration in their views that bungalows be built.”*

In response to Cllr Jones requesting more detail about the last point, the objector explained that, because the plots were originally intended for self-build, the residents in the three properties that backed onto the application site had not been permitted to speak at the November 2019 meeting which had considered the need for bungalows further along the development site. Now that the plots were to be offered for market housing instead of self-build the residents felt disadvantaged and wanted the same consideration to be offered to them as had been to the residents whose properties backed on to the bungalows.

Cllr Stubbs asked the objector for more information about the covenant that had been mentioned. The objector gave details about a disputed covenant, which applied to the “buffer zone” land that had been transferred to the owners of the Hall Barn Road properties, restricting the height of shrubs and trees in the transferred land. The local residents’ group had understood from discussions with Alex Clark (Bloor Homes) on 14<sup>th</sup> and 23<sup>rd</sup> March that the covenant would be removed, but it remained in place and under negotiation.

The Chairman thanked the objector and reminded everyone that the application was for two-storey dwellings, not bungalows, and that the Committee would need to decide the application that was before them.

The Chairman then asked the Democratic Services Officer to read aloud two further statements that had been supplied by objectors who were unable to attend the meeting.

Statement 1:

*"We are residents of 29B Hall Barn Road, Isleham which lies in the Northwest Corner of the Bloor Development.*

*At every stage over the last 4 years, we have by due process commented and placed our objections on record at ECDC regarding the above development.*

*Having achieved fairness behind 29B with the provision of a bungalow to match the original proposal of bungalows behind the properties most affected. At the planning meeting it was noted in the minutes that the new properties would not overlook or overbear the existing residents. A statement within Mr R Eburne's (Bloor Dir.) email – dated 25 November 2019 (copy available) assured us – "that the finished ground level is the same as the ground beyond the boundary" this has not happened. On the commencement of the foundations of the bungalows we noted this was not the case and informed ECDC. We were subsequently told that the finished floor levels were as per plans submitted! Without being able to confirm their plans for finished floor levels we were not in a position to be able to object to something we know nothing about. We took Mr Eburne's assurance at face level. We are concerned there will now be a slope from the new property to the boundary fence which will in turn present drainage problems to our garden and a subsequent rotting of the fence due to the higher soil level up the fence.*

*With the agreed transfer of the buffer zone to the residents all along Hall Barn Road with the developer, which was in general agreement, we learned at time of signing/transfer there were many covenants applied by the developer restricting what we could do with the strip of land and any sale of our property in the future the new buyer would have to enter a new contract with the developer regarding the strip of land. This is another stealth impact on our lives which has given us more concern and stress.*

*The continuing attitude of the developer to run 'rough-shod' over the residents of Hall Barn Road continues and most recently, in the change of planning with the self-builds, which the developer has commenced.*

*The developer has always stated they wanted to respect the privacy of existing residents, they have not! We have lost considerable light to our gardens; we've lost our privacy and value to our homes. There has been no consideration, communication or common courtesy to us regarding the constant dust and noise from the site over the last 2 years. The developer has fooled the residents of Isleham into believing they were going to build small clusters of properties*

*that would reflect their location in the heart of a small Cambridgeshire village. We were never fooled, that's why we have continued to fight.*

*We will not be dismissed by the developer's latest offer of trellising and 2 trees to hide the development in return for a withdrawal of our objections. Especially after having personally spent over £1800 doing so. We want what is fair and just and for the developer to recognise that they haven't fulfilled their promises/obligations to the residents of Hall Barn Road and Isleham."*

Statement 2:

*"We are residents of 3 The Briars, Isleham which abuts the Hall Barn Road elevation of this development.*

*We are again placing on record our objections to and disappointment at this development and the scant regard for the wishes of existing Isleham residents during the various stages of consultation, planning approval and construction.*

*Over a 3-year period from when the first consultations took place regarding this development we have fought hard to minimise the impact on the existing residential properties, and along Hall Barn Road in particular.*

*Originally the developer proposed 2-storey houses along this whole elevation but with support of our local and County Councillors we achieved a small concession for bungalows to be constructed where the greatest impact would occur, and in particular behind numbers 2, 3 & 4 The Briars.*

*The plans presented to ECDC stated that these new bungalows would be built at the same finished floor levels as our properties to avoid being overlooked and this assurance was confirmed in an email from Robert Eburne prior to full planning consent being granted.*

*Construction is now complete on these bungalows and looking at the original plans, we would estimate that the FFL height of these bungalows are at least 1m higher than were proposed and approved, with the rear gardens now having a steep slope down to our rear boundary fence which will in turn present drainage problems in our gardens.*

*This increase in the proposed FFL's granted to Bloor was given without any 'statutory notification' to all existing residents as a 'change in planning consent'. This major change to planning consent is totally unacceptable and does not comply with planning regulations and has resulted in a massive infringement on our privacy and quality of life, substantially reduced the value of our homes and frankly made it a very unpleasant place to now live!*

*The developer had always stated that they wanted to respect the privacy of all existing residents and construct this (awful) development with minimum impact on our village. These undertakings were repeated at all of the planning meetings led by Robert Eburne and his team prior to consent being granted and they have succeeded in fooling everyone concerned into believing they could be trusted as a major house developer in the southeast.*

*Having spent 20+ years in the construction industry I can frankly say, that in my opinion, this is one of the worst thought out and executed developments in the area. What happened to the original proposals to construct 'small clusters of properties of different designs and styles that reflected their location in the heart of a small Cambridgeshire village?*

*Many residents along Hall Barn Road have also expressed their concerns and will be making separate representations and in particular to the change from 'self-build' properties behind 35a, 35b and 41 Hall Barn Road to 2-storey houses which again is against the developer's undertaking to only construct bungalows."*

The Chairman then invited Alex Clark (Director, Bloor Homes), representing the applicants, to address the Committee. The applicant stated that since the principle of four dwellings at that location had already been established in the outline planning permission, the variation was purely the proposed house type. The legal agreement allowed for conversion of the plots from self-build to open-market and the obligations within that agreement had all now been met. The appearance of the proposed dwellings would reflect the wider site and was appropriate for the location. Although there had been concerns that the two-storey properties would adversely affect the neighbouring properties, the recommended separation distances within the Design Guide SPD would be exceeded and the self-build parameters plan had allowed for up to two storeys, consequently there was no planning justification to insist upon bungalows at that location. Bloor Homes had transferred the buffer zone to the neighbouring residents, who had thereby all gained 5m of garden, and had met with Cllr Huffer and the Parish Council and local residents to offer trellis and two large trees for each of the most affected properties. He considered the principle, size and scale to be acceptable and in compliance with the policies of the Local Plan and the Design Guide SPD, and therefore urged the Committee to approve the application.

Cllr Wilson commented that it had been clear at the morning's site visit that construction was already well underway, and he questioned why. The applicant explained that the decision had originally been delegated until it was called-in to Committee in January, Bloor Homes had then decided to commence the foundations on the basis that they could be adapted to any design. Cllr Wilson countered that the construction was significantly more advanced than just foundations. He also questioned the efforts that had been taken to sell the plots for self-build homes and the applicant stated that there was a clear mechanism within the s106 agreement which had been followed to the letter.

Cllrs Jones, Stubbs and C Ambrose Smith all asked questions about the potential for bungalows instead of two-storey dwellings on the application site, or re-designing the upper storey to prevent overlooking. The applicant stated that Bloor Homes was a commercial entity that wished to construct two-storey properties at this location. Although bungalows had been agreed for some more sensitive locations, they had never been promised for the entirety of Hall Barn Road and the parameter plan for the self-build plots had indicated that two-storey designs would be possible. The back-to-back distances would be in excess of the requirements of the Design Guide SPD and an additional 5m of garden had been transferred to

the Hall Barn Road residents. Outside the formal planning process, Bloor Homes was engaging with the community to try to work with them.

Cllr Stubbs asked about the discrepancy between the applicants' and objectors' views about the covenant. The applicant explained that they used standard covenants for their land transfers; within the legal agreement for the 5m land transfers a standard restriction on height had been included.

Cllr D Ambrose Smith commented positively about the build quality and style of the overall development but questioned why the ground floor heights were so high rather than being the same as Hall Barn Road, and asked whether the fence panels along the boundary could be 2.6m tall for the length of Hall Barn Road. The applicant stated that floor levels had been submitted to, and approved by, the Council as part of the reserved matters conditions. Following complaints, the planning control and enforcement team had investigated and had concluded that the construction was in accordance with the plans. Regarding the fence height, the maximum level in the covenant had been raised to 2.6m and, outside the planning process, meetings had been held with residents to consider removing the covenant. A possibility would be for Bloor Homes to plant trees in the residents' gardens, as a way around the restrictions of the covenant, and that could be formalised as a planning condition. Cllr D Ambrose Smith added that Members were in a difficult position since the applicant's viewpoint and that of residents and the Parish Council (as detailed in the Officer's report) were at odds.

Cllr Hunt concluded the questioning by commenting that the buildings under construction were approximately 6ft tall and as such Bloor Homes appeared to be constructing buildings for which they did not yet have planning permission.

At the invitation of the Chairman, Parish Councillor Richard Radcliffe (Chair, Isleham Parish Council) addressed the Committee. He explained that the Parish Council supported the development but were opposed to the construction of two-storey dwellings on the four plots under consideration. The Parish Council considered that insufficient weight had been given to overlooking and overbearing. In their Design and Access Statement, Bloor Homes had quoted part of paragraph 126 of the NPPF but the Parish Council did not consider that the current application "creates better places in which to live and work and helps make development acceptable to communities". Although Bloor Homes claimed that there would be a strong buffer and a healthy back-to-back relationship this was true for bungalows but not for two-storey dwellings. The separation distances from the new bungalows to The Briars were very similar to the distances between the proposed new dwellings and their immediate rear neighbours on Hall Barn Road, whereas other properties further along Hall Barn Road had much greater separation distances. The residents had expected bungalows on these plots. Bloor Homes had previously stated that Hall Barn Road was a sensitive boundary for plots 108-111 and this had been reflected in the construction of bungalows rather than houses; these plots should be treated similarly.

There were no questions for the Chair of the Parish Council.

Cllr Huffer then addressed the Committee as the Ward Councillor for Isleham. She made clear that she had no objections to the principle of the overall development,

but the plots under consideration in this application had originally been designated for self-build. Although Bloor Homes had complied with the Council's policy regarding marketing the plots, she had learned that there was no requirement for market rates to be applied and she therefore believed it to be common practice for large developers to price their self-build plots at an unrealistically high level which would, in time, enable them to convert the unsold self-build allocation to market housing. She urged the Planning Manager and the Chairman to review the policy in order to end this practice. She showed Members a photograph taken from 3 The Briars which illustrated that the bungalows had not been built at the same level as the existing housing, to the severe detriment of existing occupiers who were now choosing to move away. Two-storey dwellings behind 29 – 31 Hall Barn Road were therefore a significant concern and she had recently met with residents and Bloor Homes to discuss the application. She had been assured at that meeting that the foundations were suitable for bungalows as well as two-storey dwellings, and had therefore urged them to build bungalows to protect the privacy and quiet enjoyment of the existing residents. Since that meeting the residents had each been offered trellis and two trees to shield their properties, on the condition that they withdrew their objections and persuaded her to withdraw her call-in to Committee. Her understanding was that that offer had now been withdrawn. She urged the Committee to defer the item and ask Bloor Homes to redesign the homes to a maximum of one storey in order to prevent overlooking and overbearing to the residents of Hall Barn Road.

Cllr Downey asked what planning reason could be given for deferring the application; the Ward Councillor suggested the considerable loss of amenity to existing residents due to overlooking and overbearing. Regarding the marketing of self-build properties, Cllr Wilson suggested that the Council should consider mandating that self-build plots be marketed as affordable housing if they could not be sold for self-build, and Cllr C Ambrose Smith referred to the Council's register of interest in self-build plots. The Ward Councillor agreed with Cllr Wilson's suggestion and gave an example of another development where CLT self-build plots had a waiting list whereas the developer's plots were significantly more expensive and were un-sold. The Planning Manager explained that all parties on the Council's self-build register had been contacted regarding the four self-build plots; the Ward Councillor stated that interest would only be generated if the plots were marketed at realistic prices.

Cllr Jones expressed concern that the self-build plots had permission for up to two storeys, and therefore refusal of permission could lead to an appeal. The Ward Councillor explained that Bloor Homes had indicated that the foundations were suitable for single-, 1.5- and two-storey buildings and that was why she had proposed a deferral. If the developer was able to construct bungalows then they should be encouraged to do so.

The Chairman invited further comments from the Planning Team Leader, and then questions for him from Members. The Planning Team Leader drew Members' attention to paragraph 7.4.3 of the Officer's report which detailed the marketing of the self-build plots, and paragraph 7.12 which addressed the issue of the covenant.

In response to a question from Cllr Jones about the likelihood of an appeal if the application was refused, the Planning Team Leader reminded Members that the

application complied with the Design Code in respect of the rear separation distances and stated his professional opinion that an appeal would be likely, with the possibility of costs being awarded against the Council. Cllr D Ambrose Smith asked whether the Ward Councillor's proposal of a deferral would enable the Officers and the developer to work together to modify the properties to reduce the overlooking. The Planning Team Leader stated that the Committee should approve or refuse the application as submitted; a deferral would require very clear reasons, and Officers already worked with developers in the earlier stages of considering applications. Therefore, in his professional opinion, a deferral could result in the developer appealing for non-determination.

Cllr Every asked the Chairman for permission to question the applicant again. Having received permission, she asked Alex Clark whether, in view of all that he had heard, he could see a merit in deferring for further discussion to reduce the opposition to the four dwellings. The applicant replied that Bloor Homes' view was that they were following the clear parameters in the outline planning permission, the legal agreement and the parameter plan. The application had been under consideration for a long time and the view of the professionals was clear; there was a strong planning case for approval.

Cllr Hunt sought and received confirmation from the Planning Team Leader that, if the application was refused, the applicants could resubmit a revised application free of charge.

Commenting that the possibility of two-storey properties had been allowed for the self-build plots in order to improve their marketability, Cllr Jones asked whether it would be reasonable to impose different conditions on the same plots now that they were to be market dwellings. The Planning Team Leader explained that the tests regarding residential amenity were the same whether or not the plots were intended for self-build, and that it was not reasonably possible to have different rules according to whether or not the plot was for self-build. The original development was required to contain a minimum number of bungalows, all of which had been provided.

Finally, Cllr Downey asked whether there was any requirement within the Local Plan or other policies that required a developer to act in an honest or fair way, since it was clear that not everyone felt that to have been the case. The Planning Manager explained that community engagement was encouraged but the behaviour of developers was outside the responsibilities of the Council.

The Chairman then opened the debate. Cllr Wilson stated that he considered this to effectively be a retrospective application since it was clear from the site visit that construction was already underway. He did not see any valid planning reasons to refuse or defer the application and therefore saw no option but to very reluctantly approve it. However, he suggested that if it were to be approved then strict conditions should be applied in order to assist in reducing the site's impact. He suggested that trees of an appropriate height and size could screen the buildings, and frosted glass on the rear windows of the new buildings would reduce overlooking. The Planning Team Leader explained that any tree-related conditions would need to be located within the site's red line; a legal agreement would be required instead if the trees were to be on neighbouring land. It was not considered

reasonable to condition obscure glazing for bedrooms since all residents deserved an outlook. Cllr C Ambrose Smith suggested that the roofline could be altered such that the rear bedrooms were served by velux windows instead; the Planning Manager reminded Members that a decision needed to be reached on the application as submitted.

Cllr D Ambrose Smith proposed that the application be refused on the grounds that it did not meet the requirements of policy ENV2 due to its significant detrimental effects on the nearby neighbours' residential amenity. Cllr Austen seconded the proposal.

Cllr Jones agreed with Cllr Wilson's assessment that, since up to two storeys had been allowed for self-build, there was unfortunately no planning reason to refuse two-storey dwellings at this stage. He would therefore be proposing that the Officer's recommendation for approval be accepted.

Cllr Downey considered that the Committee was in a difficult position since the community opposed the application and felt misled about it. He felt that Cllr D Ambrose Smith had made a good argument concerning the reduction in residential amenity, however, the developer and Officers had disagreed with that view. He therefore remained undecided. Cllr Stubbs also declared her indecision although she echoed Cllr Jones' comments about the difficulty relating to the previous acceptance of the potential for two-storey dwellings on the site. She considered that Bloor Homes had damaged a previously good reputation for the sake of only four properties.

The motion to refuse the application was then put to the vote.

It was resolved with 5 votes in favour, 3 votes against, and 2 abstentions:

That planning application ref 21/01636/FUL be REFUSED on the grounds that it did not meet the requirements of policy ENV2 due to its significant detrimental effects on the nearby neighbours' residential amenity.

Date of Publication of Decision List: 8<sup>th</sup> April 2022

**FOR INFORMATION ONLY**

**NONE OF THESE DECISIONS ARE SUBJECT TO CALL-IN**



EAST  
CAMBRIDGESHIRE  
DISTRICT COUNCIL

**PLANNING COMMITTEE – 6<sup>th</sup> APRIL 2022– DECISION LIST**

ITEM NO.	REPORT REF.	APPLICATION	DECISION	ACTION BY
5.	W170	<p><b>21/01636/FUL</b></p> <p>Construction of four market dwellings, garages, parking spaces, hard and soft landscaping, access and all other associated infrastructure</p> <p>Land accessed between 2 and 4 Fordham Road, Isleham, Cambridgeshire</p>	<p>It was resolved:</p> <p>That planning application ref 21/01636/FUL be REFUSED on the grounds that it did not meet the requirements of policy ENV2 due to its significant detrimental effects on the nearby neighbours' residential amenity.</p>	<p>Andrew Phillips, Planning team Leader</p>
6.	W171	<p><b>21/01694/FUL</b></p> <p>Erection of a new commercial building comprising Use Class E (Office, Research and Development, and Health Services) with ancillary plant, external lighting, car parking, cycle parking and associated infrastructure</p> <p>Land west of 115 Lancaster Way Business Park, Ely, Cambridgeshire</p>	<p>It was resolved (unanimously):</p> <p>That planning application ref 21/01694/FUL be APPROVED on the grounds that it was not considered to be contrary to policies COM1, COM3, COM8 and EMP1.</p> <p>It was further resolved:</p> <p>That the Planning Manager be given delegated authority to impose suitable conditions, including restricting the permitted activities to those detailed in the application: office, research and development, and healthcare services.</p>	<p>Toni Hylton, Senior Planning Officer</p> <p>Rebecca Saunt, Planning Manager</p>

ITEM NO.	REPORT REF.	APPLICATION	DECISION	ACTION BY
7.	W172	<p><b>22/00037/FUL</b></p> <p>Change of use to a mix of Gypsy and Traveller residential use, with construction of three residential pitches for equestrian use, and three stable blocks</p> <p>Land west Of Saunders Piece, Ely Road, Little Thetford, Cambridgeshire</p>	<p>It was resolved:</p> <p>That planning application ref 22/00037/FUL be APPROVED subject to the recommended conditions detailed in Appendix 1 of the Officer's report, with condition 7 being replaced by <i>"No development shall take place until a scheme to dispose of surface and foul water has been submitted to and approved in writing by the Local Planning Authority. The scheme(s) shall be implemented prior to first occupation and maintained in perpetuity."</i></p>	Toni Hylton, Senior Planning Officer
8.	W173	<p><b>22/00042/FUL</b></p> <p>Conversion of existing garage to annexe accommodation and construction of alterations to the infrastructure</p> <p>1 Link Lane, Sutton, Ely, Cambridgeshire, CB6 2NF</p>	<p>It was resolved:</p> <p>That planning application ref 22/00042/FUL be REFUSED for the reasons detailed in paragraph 1.1 of the Officer's report.</p>	Isabella Taylor, Planning Officer
9.	W174	<p><b>Planning Performance Report – February 2022</b></p>	<p>It was resolved:</p> <p>That the Planning Performance Report for February 2022 be noted.</p>	