

## Planning and EP Committee

### Item No. 5.2

**Application Ref:** 17/01902/OUT

**Proposal:** Outline planning permission for the erection of 5 self build detached bungalows (with refuge in the roof space) together with associated access, parking and amenity space with all matters reserved except for access

**Site:** Land on the west side of Guntons Road, Newborough, Peterborough

**Applicant:** Mr & Mrs B GREGORY

**Agent:** Mr J S Dadge  
Barker Storey Matthews

**Site visit:** 1th October 2017

**Referred by:** Cllr Nigel Simons

**Reason:** Supports application as the application has addressed the appeal decision.

**Case officer:** Mrs J MacLennan

**Telephone No.** 01733 454438

**E-Mail:** janet.maclennan@peterborough.gov.uk

**Recommendation:** **REFUSE**

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## 1 Description of the site and surroundings and Summary of the proposal

### Site and surroundings

The application site is approximately and 0.42 hectares (44m x 95m), rectangular in shape and is located on the western side of Guntons Road and to the rear of nos. 78 to 90. The application site is primarily a large grassed area/paddock and part of the domestic garden to no 90 Guntons Road.

The site lies within the Newborough settlement boundary approximately 70m from the southern entrance to the village. The site is bounded by residential development to the east comprising both bungalows and two storey dwellings; to the north and south the site abuts rear gardens to properties fronting Guntons Road, with agricultural fields to the west. There is a drain/ditch parallel to the western boundary.

Access to the site would be gained via an existing access off Guntons Road which is also used by the host dwelling. There is a further independent access off Guntons Road serving the host dwelling.

### Proposal

The application seeks outline approval for the erection of 5 no. self-build detached bungalows (with refuge in the roof space). Access is to be committed at this stage with all other matters reserved to a later stage.

Two revisions have been submitted since the initial submission reducing the number of bungalows from 8 to 6 and now reducing the number to 5. There would be no first floor accommodation.

Re-consultations have been undertaken with neighbouring properties.

## 2 **Planning History**

<b>Reference</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
15/00941/OUT	Erection of 2 x dwellings	Refused	12/08/2015
13/01638/WCPP	Removal of conditions C1, C3 and C4 of planning permission 05/01592/FUL - Change of use of land to residential garden (retrospective)	Permitted	17/12/2013
05/01592/FUL	Change of use of land to residential garden (retrospective)	Permitted	09/01/2006
05/00622/FUL	Change of use of land from open countryside to residential garden (retrospective)	Refused	19/09/2005
02/00405/OUT	Erection of two dwellings with garages	Permitted	09/07/2002

## 3 **Planning Policy**

Decisions must be taken in accordance with the development plan policies below, unless material considerations indicate otherwise.

### **National Planning Policy Framework (2012)**

#### **Section 6 - Backland Development**

Inappropriate development of residential gardens where harm would be caused to the local area should be resisted.

#### **Section 6- Delivering a Wide Choice of High Quality Homes**

Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.

#### **Section 10 - Development and Flood Risk**

New development should be planned to avoid increased vulnerability to the impacts of climate change. Inappropriate development in areas of flood risk should be avoided by directing it away from areas at higher risk. Where development is necessary it shall be made safe without increasing flood risk elsewhere. Applications should be supported as appropriate by a site-specific Flood Risk Assessment, a Sequential Test and, if required, the Exception Test.

### **Peterborough Core Strategy DPD (2011)**

#### **CS01 - Settlement Hierarchy and the Countryside**

The location/ scale of new development should accord with the settlement hierarchy. Development in the countryside will be permitted only where key criteria are met.

#### **CS02 - Spatial Strategy for the Location of Residential Development**

Provision will be made for an additional 25 500 dwellings from April 2009 to March 2026 in strategic areas/allocations.

#### **CS14 - Transport**

Promotes a reduction in the need to travel, sustainable transport, the Council's UK Environment Capital aspirations and development which would improve the quality of environments for residents.

#### **CS16 - Urban Design and the Public Realm**

Design should be of high quality, appropriate to the site and area, improve the public realm, address vulnerability to crime, be accessible to all users and not result in any unacceptable impact upon the amenities of neighbouring residents.

### **CS17 - The Historic Environment**

Development should protect, conserve and enhance the historic environment including non-scheduled nationally important features and buildings of local importance.

### **CS22 - Flood Risk**

Development in Flood Zones 2 and 3 will only be permitted if specific criteria are met. Sustainable drainage systems should be used where appropriate.

### **Peterborough Planning Policies DPD (2012)**

#### **PP03 - Impacts of New Development**

Permission will not be granted for development which would result in an unacceptable loss of privacy, public and/or private green space or natural daylight; be overbearing or cause noise or other disturbance, odour or other pollution; fail to minimise opportunities for crime and disorder.

#### **PP04 - Amenity Provision in New Residential Development**

Proposals for new residential development should be designed and located to ensure that they provide for the needs of the future residents.

#### **PP12 - The Transport Implications of Development**

Permission will only be granted if appropriate provision has been made for safe access by all user groups and there would not be any unacceptable impact on the transportation network including highway safety.

#### **PP13 - Parking Standards**

Permission will only be granted if appropriate parking provision for all modes of transport is made in accordance with standards.

#### **PP16 - The Landscaping and Biodiversity Implications of Development**

Permission will only be granted for development which makes provision for the retention of trees and natural features which contribute significantly to the local landscape or biodiversity.

### **Peterborough Local Plan 2016 to 2036 (Proposed Submission Draft)**

This document sets out the planning policies against which development will be assessed. It will bring together all the current Development Plan Documents into a single document. Consultation on this Proposed Submission version of the Local Plan will take place during January and February 2018 after which the responses will be reviewed ahead of submission to the Secretary of State.

This plan was approved Cabinet for consultation on 13 December 2017. It is, therefore, classified as an 'emerging plan'. Paragraph 216 of the National Planning states that decision makers may give weight to relevant policies in an emerging plan according to:-

- the stage of the Plan (the more advanced the plan, the more weight which can be given)
- the extent to which there are unresolved objections to the policies
- the degree of consistency between emerging policies and the framework.

The policies can be used alongside adopted policies in the decision making process, especially where the plan contains new policies. The amount of weight to be given to the emerging plan policies is a matter for the decision maker. At the final stage the weight to be given to the emerging plan is more substantial than at the earlier stages although the 'starting point' for decision making remains the adopted Local Plan.

### **Peterborough Flood and Water Management SPD (2012)**

This supplementary planning document (SPD) focuses on managing flood risk and the water environment in and around new developments in Peterborough. In order to reduce the likelihood and consequences of flooding, it is necessary that development is located in a safe environment.

## 4 Consultations/Representations

**Archaeological Officer** – No objection. The area is low lying and may have been unsuitable for occupation from the later Bronze Age period until systematic drainage of the Fens in the post-medieval period. However, cropmark remains associated with prehistoric funerary activity and undated domestic/agricultural activities are recorded to the north, south and west of the subject site. Some of these remains may extend into the proposed development site. Given the uncertainty surrounding the archaeological potential of the site, an evaluation by trenching should be secured by condition.

**PCC Pollution Team** - No comments received

**PCC Peterborough Highways Services** – No objection. The principle of this development in traffic terms is acceptable to the local highway authority (LHA) however requests improvements to be made to the access for the benefit of the new residents and the community in general. The access width at 5.5m is in line with PCC's requirements. A short length of new footway should be provided either side of the access to allow pedestrians to cross from the opposite footway away from the driveway so as to avoid potential conflict with vehicles.

The existing access to no. 90 must be closed off and access to this house should be solely from the shared drive. The development should be designed to accommodate refuse collection vehicles including a turning head. Visibility splays should be indicated on the drawing. These should show vehicle to pedestrian visibility splays of 2m x 2m within the site on each side of the access and vehicular visibility splays of 2.4m x 43m formed along the carriageway edge.

The revised drawing takes on board the highway concerns. There are no highway objections subject to relevant conditions.

**Highways England** - No objection

**Environment Agency** – The Local Planning Authority needs to assess the appropriateness of the proposed development in this location from a flood risk perspective by applying the Sequential and Exception Tests. Should the proposed development satisfy the requirements of the Sequential and Exception tests, we would have no objection to the application subject to the inclusion a condition regarding the FRA.

**Health & Safety Executive** - Do not advise against planning permission being granted.

**Cadent Gas** - No comments received

**Newborough & Borough Fen Parish Council** - Recommend that the density is reduced to allow larger amenity area. Recommend no windows in the refuse space to avoid overlooking. Parking is an issue on Guntons Road. Question why a refuge is needed if there is no risk of flooding.

Revised comments: While the Parish Council agrees there should be a minimum 5.5m access width requirement, the Parish Council would like to ensure the road is wide enough for cars to pass easily when vehicles are parked on the road outside the properties as the Parish Council already receive complaints with regard to Williams Close parking. Properties are already being built behind Guntons Road and so I see no comment needed there. It should be built to a standard that freight vehicles can collect bins from the premises rather than them being deposited at a point on or near the highway.

We would request that no upper floor window overlook/look into other premises.

Who would be responsible for the amenity land. Could this area be developed for more car parking?

There are also concerns regarding the capacity at the local primary school.

**North Level District Internal Drainage Board** – No objection. The Board's Mossops Drain forms the western boundary to the development and the Board's byelaws prevent any construction within 9m of this watercourse. An application to relax this byelaw together with an application to discharge surface water in to the drain will be required. A development levy will be payable.

**Cambridgeshire Fire & Rescue Service** – No objection. Requests that provision is made for fire hydrants by condition or by a S106 agreement.

**Open Space Officer** - Having reviewed the newly submitted Layout plan indicating the reduced unit number to 6 (which would not normally lead to a S106 Agreement) clarification is needing to be made regarding the issue of "Amenity Space" & whether this is to be Public Open Space (POS) before the application proceeds any further. At this point it is also to be noted that if the 3 areas are to be Amenity Space or POS they are to be combined into one useful recreational area, thus requiring a redesign of the current layout.

**PCC Tree Officer** - The site is outside of a Conservation Area and there are no trees protected by a TPO in the vicinity. No arboricultural information supports the application. Within the DAS it is stated that an AIA will be produced at reserved matters. It is stated that the 'trees on the boundary and adjacent to the site are unlikely to be impacted upon'. In my opinion the current layout is sympathetic to the boundary trees and without any information to outline the contrary it is assumed that they will all be retained. It is noted that the majority of the trees are low quality and/or don't have the public amenity to merit protection with a TPO.

An indicative plan for tree removals and retentions would be helpful to acknowledge to the public and planning team which the likely outcome of the proposal will be. Further to the information requested above there is no objection to the proposed layout. Further to what is described in the DAS if the application is successful it is appropriate that an arboricultural method statement and tree protection plan is produced at reserved matters.

**Waste Management** - No comments received

#### **Local Residents/Interested Parties**

Initial consultations: 11

Total number of responses: 10

Total number of objections: 8

Total number in support: 1

**Cllr Nigel Simons** - I have been asked to have the above application recommended to the planning committee, should it not be approved. I note the original application was turned down by a planning appeal. I also note the new application has changed somewhat, village boundary has changed. The new application has taken into account comments from the Inspectorate.

**Cllr Steve Allen** – I have been contacted by a number of residents affected by the proposed development. Those living in close proximity have a number of concerns. Should the applicant be recommended for approval I request it is referred to planning committee.

7 letters have been received following consultation on the revised scheme of 5 bungalows. The following comments have been made:

- Due to the soil/proximity to farmland which has low bearing capacity the buildings would require substantial and significant foundations
- The density of the development would create a risk of further subsidence.
- No 86 is incorrectly shown on the plan; the development would result in overlooking to the property and garden of no. 86
- Article 8 of the Human Rights Act states that a person has the substantive right to respect for their private and family life and this includes the protection of the countryside also.

- The view across the countryside would be tarnished by the development
- The new footpath would lead to loss privacy to no. 86 Guntons Road
- The development would be clearly seen from the open countryside
- The density is not in keeping with the surrounding character
- The plots would be 6-7m apart which would negate the community feel being a high density compressed cul de sac
- The field is the wrong shape for the development
- I use my garage for counselling and the development would jeopardise my business and impact on my clients. My clients need peace and quiet and noise from the building works/future occupiers would be unsettling, distracting and stressful for my clients.
- I can see that considerable concessions have been made with the revised scheme. This is probably the best we can hope for.
- I am hoping the planning committee still refuses the application.
- Our only concerns now are that the utility areas are maintained.
- Support the reduction from 8 to 5 dwellings.
- The development will fulfil a need specifically for this type of dwelling in the village.

The following comments were made on the earlier schemes:

- No. 86 Guntons Road has not been amended on the plan to show it as being closer to plot 6.
- First floor windows to plot 6 will overlook the rear bedroom windows of no. 86.
- The new footpath to the front boundary of no. 86 will have direct views into no. 86 and 88
- 6 bungalows with accommodation in the roof is too much and is still too close to no. 84
- Bungalow at no. 5 is still very close to our boundary; there are trees along the boundary but this may not always be the case
- We have poplar trees along the bottom of this boundary which have long reaching roots
- The number of plots should be reduced to reflect the surrounding density.
- I use my garage for counselling and the development would jeopardise my business and impact on my clients. I am passionate about what I do and believe I'm doing my bit to help keep the NHS waiting lists down
- The new footpath would have parking issues for clients
- The sights, sounds, smells from building work and noise, light pollution, lack of privacy would be unacceptable to me as a counsellor due to client's sensory issues
- I am devastated by the thought of it all it makes me feel quite ill
- I will not feel safe knowing that people will be able to climb into my garden and home.
- Loss of light/sunlight
- Overlooking to my garden and bungalow
- Impact of dust and fumes and pollution from traffic
- We would have to erect a high fence to replace the existing low wire fence to maintain privacy
- We would overlook 8 properties and impact on their privacy
- The development would impact on my health (asthma) due to pollution of air quality
- Article 8 of the Human Rights Act states that a person has the substantive right to respect for their private and family life and this includes the protection of the countryside.
- The development would be detrimental to our well being and comfort due to noise and poor impact on views.
- The development would not provide adequate living space
- No reports have been undertaken on the quality of the ground for building and effect on neighbouring properties.
- There could be a compaction of soil causing the properties to have a downward movement taking them below the 30cm above ground level.
- How will the amenity spaces be maintained?
- Small areas of amenity land are inadequate
- The gardens are irregular in shape and do not correlate with surrounding properties.
- The development would be visible from St Martins Road/Middle Road
- The new properties would be constantly visible to the existing occupants

- I would not want to tarnish the view across the country with a high density development.
- Loss of outlook to the countryside
- The land was not meant to be for residential use and has always been green belt, use for grazing which is why we bought our house
- Loss of value and saleability of our property
- There are more suitable parcels of land available within the village envelope that could meet housing target.
- The land is outside of the village boundary
- The land has been protected by being outside the village envelope until 2012
- We bought the house in the knowledge that the land could not be building on.
- Planning permission was previously refused for two dwellings behind 90 Guntons Road due to flood risk/lack of any benefit to the wider community. The same arguments apply.
- Spoiling the beautiful green field which houses bats and natures wildlife.
- I have lived here for 47 years enjoying the privacy and watching the wildlife
- The amended plans appear to have different measurements and the width is now 3m wider (how has this been gained)
- The timescale for re-consultation did not allow time for me to attend the PC meeting
- The developer and Mr Gregory received far more advanced warning of the PC meeting which allowed their interests to be put to the meeting without objection by neighbours
- The access would be directly opposite Reedmace Close
- The development would result in a traffic hazard
- Potential for residents and their visitors to park additional vehicles along the road could lead to further obstruction
- Waste vehicles would be required to use this turning hearing
- The main road has too much use and needs constant repairing
- The access would be extremely tight for emergency vehicles/delivery vehicles
- This is not a sustainable location and most people would invariably use private cars.
- The access road to the development is claimed to be 5.5m it is actually 4.5m. The garage to no. 88 Guntons Road would have to be demolished to achieve 5.5m
- The turning head is obstructed by 3 lots of parking bays
- The field used to be water logged before the farmer installed drainage pipes which drain to the dyke
- The applicant has said he would be happy with as few as four dwellings (including the two for his family) to achieve his plans
- We cannot assume that this development would support the community strategy of providing health and social care closer to home
- The community strategy is focused on building stronger communities the development does not bring any guaranteed new support networks to the community
- We would cautiously accept the four dwellings provided they are more than 9m from our boundary and that they are bungalows.
- A condition should be imposed for fencing to a height of 2.4 metres to ensure security.
- Support application, but the bungalow at plot 6 is too close to our boundary
- 5/6 bungalows would be better
- No objection. The development would not be intensive and disturbance from through traffic would be minimal
- The building of bungalows would be low profile and preserve a sense of openness
- The development would fill a need for this type of dwelling as people age
- The development would complement the village

## **5 Assessment of the planning issues**

### Background

Outline planning permission was refused in 2015 for the erection of 2 dwellings on land to the rear of 90 Guntons Road (ref. 15/00941/OUT). The proposal sought permission for a retirement home

for the applicants' parents and an additional dwelling for the applicants' own use.

The application was refused on flood risk grounds. The site is located within flood zone 3 and on land at the highest risk of flooding. Residential development is classed as 'more vulnerable' development. The application had failed to demonstrate, by way of a Sequential Test, that there were no more sequentially preferable sites available for the proposed development.

In addition, it was not considered that the proposal would provide wider sustainability benefits to the community that would outweigh the risk of flooding as required by the Exception Test. The proposal therefore failed to meet both the Sequential and Exception Test requirements with regards to flood risk and was contrary to paragraphs 100, 101 and 102 of the National Planning Policy Framework (2012), Policy CS22 of the Peterborough Core Strategy DPD (2011) and Chapter 4 of the Peterborough Flood and Water Management SPD (2012).

The applicant appealed the decision of the Local Planning Authority.

Additional information was provided by the applicant at the appeal which included information in relation to the sequential test regarding the availability of alternative sites not at risk of flooding within villages with the same designation - 'Limited Growth Villages', as Newborough. This concluded that there were no suitable sequentially preferable sites, allocated or potentially allocated, available within limited growth villages that could accommodate the proposed development.

In addition market research found that there were no plots of land on the market within the limited growth villages with planning permission that could accommodate the proposed development. At the time of the appeal the Local Planning Authority was satisfied that information met the criteria in terms of the Sequential Test and that the Sequential Test had been met.

As well as the requirement to meet the sequential test Paragraph 102 of the Framework advises that the Exception Test must also be passed. In order to do so the development must demonstrate there are wider sustainability benefits to the community to outweigh flood risk; and a Flood Risk Assessment (FRA) must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and where possible will reduce flood risk overall.

In respect of the second part of the Exception Test, the development proposed that the finished floor levels would be higher than those of the adjacent properties and would be designed to be flood resilient. The Environment Agency raised no objection and the Inspector was satisfied that the development would be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere.

In respect to the first part of the Exception Test the Inspector considered that whilst the proposal would lead to benefits to the appellants and their parents, these would not extend to the communities of Peterborough. The Inspector did not consider the scheme to score well against the outcomes in the Community Strategy or that it would have a positive impact on them. The Inspector concluded that the wider community benefits were insufficient to outweigh the flood risk. This will be discussed further below.

The appeal application was subsequently dismissed.

The applicants have lived at the property for 13 years. The scheme as originally submitted sought permission for up to 8 bungalows, with refuge accommodation in the roof space. The scheme has been amended and now proposes 5 bungalows. One bungalow will be for the applicants' aged parents who they would like to relocate from Ellington near Huntingdon to enable the applicants to provide care for them. One of the bungalows would be for the applicants and the remainder will be sold as self-build plots.



## The Principle of Development

The site lies within the village settlement boundary of Newborough which is designated as a 'Limited Growth Village' under policy CS1 of the Adopted Peterborough Core Strategy DPD. While inclusion within a village envelope is the first requirement for housing in villages, this does not automatically support residential development. Consideration is given to the planning constraints as in the case with any development.

The site was proposed under the draft development plan 2012 as a housing allocation site. The site was rejected on flood risk grounds.

The site was also rejected as a site allocation for the new local plan on flood risk grounds. (NBF004 H). The site was subsequently withdrawn from the Peterborough Local Plan (Proposed Submission Version) as an allocation as 9 dwellings is below the threshold of 10.

The applicant states that whilst the site is not a specific site allocation it is reasonable to assume the site is appropriate for development otherwise there would have been no change to the village envelope boundary.

Members should also be aware that as part of the review of the development plan – the proposed submission version (Jan 2018) the village envelope has been re-drawn following consideration of flood risk constraints and therefore within the emerging local plan, this site would fall outside of the village envelope. It is accepted that this is not a reason to refuse the scheme currently under consideration as the proposal accords with the adopted development plan at the present time.

## Flood Risk

Notwithstanding the location of the site being within the village settlement boundary the site lies within Flood Risk Zone 3 as defined on the Environment Agency's Flood Risk Maps. No residential development in these areas can be permitted unless the sequential test and exception test as advised under policy CS22 of the Adopted Peterborough Core Strategy DPD and section 10 of the National Planning Policy Framework are passed.

### ***Sequential Test***

A sequential test has been applied to the development and following the request by the case officer additional sites that were put forward for allocated housing sites for the new local plan within the Site Evidence Report 2016 and rejected by the City Council, were also considered. This concludes that there are no suitable sequentially preferable sites, allocated or potentially allocated sites currently available within limited growth villages that could accommodate the proposed development.

The applicant has advised that an extensive internet search (including the local land agents) was carried out on the 19<sup>th</sup> September 2017; including internet and local agents, Zoopla, Prime locations - housing land and Rightmove land. The agent acting on behalf of the applicant also used their market intelligence and connections to establish if there were comparable sites available in accordance with the search parameters. Within this search no land was identified as being suitable and available within any of the target villages identified above.

It is considered that the sequential test is therefore passed.

### ***Exception Test***

The Exception Test ensures that new developments which are needed in medium or high flood risk areas will only occur where flood risk is clearly outweighed by other sustainability factors and the development will be safe for its lifetime, taking climate change into account.

The Peterborough Flood and Water Management Strategy (SPD) (2012) advises the use of the

outcomes set within the Greater Peterborough Partnership Sustainable Community Strategy 2008-21 as the framework for demonstrating whether or not wider sustainability benefits can outweigh flood risk. There are sixteen outcomes (listed on page 11 and 12 of the Strategy) against which the development should be scored. These outcomes are those that Peterborough wishes to see delivered in order to benefit its communities. The Sustainable Community Strategy has been adopted by the city council and its partners as the overarching and guiding strategy for Peterborough.

Referring back to the former appeal decision (ref. 15/00941/OUT). The former scheme was a small piece of land and the proposal was for two bungalows to provide accommodation for the applicants and their elderly parents. The Inspector acknowledged the proposal would have allowed the applicants' parents to be cared for whilst maintaining a degree of independence and a good quality of life. The applicants claimed that the proposal would reduce the burden on health and social care services, the local authority and the wider community. In addition, the scheme would support vulnerable people given the applicants' parents progression in age and potential for failing health.

The inspector considered that nothing had been provided in support of the appeal indicating what the care needs of the parents were, or the demands they currently put on the local authority or are likely to in the future. As such there was no evidence to suggest that health or social care would necessarily be saved as a result of the appeal scheme either now or in the future.

The Inspector went on to say that there was nothing to suggest that the future occupiers of either dwelling are affected by disadvantage or disability or that they are, or are likely to become, vulnerable. Furthermore, the Inspector was conscious that the occupation of the proposed houses by the applicants and their parents or by other occupants who are elderly, vulnerable or in need of care cannot be assumed or ensured in the long term; and that it is not normally appropriate to impose conditions to limit the benefits of the planning permission to a particular person or group of people and that *'planning permission runs with the land and it is rarely appropriate to provide otherwise'*.

The Inspector was therefore not convinced that the scheme's contribution to improving health and supporting vulnerable people (Community Strategy outcomes 1 and 2) would be significant.

The current application is supported with a letter from the applicants' parents' (Mr and Mrs Murden) doctor which explains their health needs. The letter supports the urgent need for planning permission for a 'mobile home' or 'single storey extension' suitable for the parents. The letter states that the applicants' mother's care needs *'are unpredictable and she pretty much needs the availability of somebody to care for her 24 hours a day, which means it is ideal for her daughter to be on site, although at times she is perfectly capable of being independent'*. Mr Murden, who used to be her primary carer is now suffering ill health also and finds it difficult to cope when Mrs Murden is unwell. The letter goes on to state *'if they were not to be allowed a mobile home on Mr and Mrs Gregory's site then the alternative would probably be residential care which of course would be very much more costly to the local authority'*.

The application states that the development would not only benefit the applicants' parents but also the wider society and that bungalows are a most appropriate form of development for older residents. The application states that the scheme would provide modern bungalow accommodation that is not provided elsewhere in Newborough or in the other Limited Growth villages.

It goes on to state that *'there is increasing concern about the isolation of, and care for the elderly in our society. The benefit of being in close proximity to family is recognised as improving longevity and quality of life and reducing the demands on the NHS and social services. This is certainly something Government and Peterborough City Council are cognisant of in developing new social services policy based around care at home and in the community'*.

It is acknowledged that the provision of accommodation for the applicants' parents would provide an opportunity for care to be provided by the applicants. However this could also be provided in the form of a temporary dwelling, annex or by an extension to the host dwelling at no. 90.

The scheme has now been reduced to 5 bungalows; two of which would be occupied by the applicants and the applicants' parents. Three would be available as self-build plots. However as stated by the Inspector considering the former scheme the future occupants of the bungalows cannot be assumed or ensured in the longer term and therefore neither can provide any benefit to the community in this regard. It would not be appropriate to condition the occupancy of the development.

In terms of building community cohesion (outcome 7) the application states the development would build community cohesion with a mix of new residents who can be varied in composition given the accessible nature of the dwellings.

Under the former scheme the Inspector considered that there was nothing to suggest this could not be achieved by development on a site that has a lesser risk of flooding; and that given the scale of the development it would do little to create a strong and supportive community or to build community cohesion. It is accepted that the proposal would provide an additional 5 dwellings compared with the former scheme of 2 dwellings however, it is considered that the scale of the development would do little towards building community cohesion.

The application states:

- that the quality development would build pride in Peterborough (outcome 8). It is not considered that the development would make a significant contribution to this objective.
- that the development would provide open space / amenity space making Peterborough cleaner & greener (outcome 9). An area of open space is proposed on the indicative layout however this is to be private to the development; again it would not exceed the policy requirement for residential development and would therefore not be a significant contribution to making Peterborough cleaner and greener as recommended by outcome 9; and it is already grassed land.
- that the development would create a safe environment with a single point of access and good surveillance throughout. This is accepted. The proposal would allow a good level of surveillance of the elderly parents, however it would do little to contribute towards '*Creating a safe, vibrant city centre and sustainable neighbourhood centres – so that people have more diverse and improved places to visit and enjoy*' (outcome 13).
- that the proposal would create jobs in the building process and new residents will contribute to the local economy by increasing potential spending within the village (outcome 14). It is also noted that the development would be 'self-build' plots. Given the small scale development its contribution to the local economy and increasing economic prosperity in the area would be minimal.
- that the development would conserve natural resources by utilising land within the village envelope rather than green field sites beyond it. However, development would not be permitted outside the village boundary.
- that the development would support public transport services by providing additional residents who can use of sustainable transport. As with the former scheme the Inspector's view on this matter was that the future occupants' use of the private car could not be ruled out. It is not considered that the development would significantly increase the use of sustainable forms of transport.

Having assessed the stated wider sustainability benefits of the proposal it is not considered that the proposed benefits of the development would outweigh the risk of flooding as required by the Exception Test.

### **Flood Risk Assessment**

A site specific Flood Risk Assessment (FRA) supports the application. The FRA has been revised since the initial submission and now proposes that the finished floor levels would be 500mm above the existing ground level and an additional 300mm of flood resilient construction above the finish floor level and a safe refuge in the roof space of each dwelling. The Environment Agency (EA) advises that should the proposed development satisfy the requirements of the Sequential and Exception tests there is no objection to the proposal subject to the measures contained within the FRA being secured by condition.

It is considered that the dwellings could be designed to ensure they are safe for their lifetime in terms of flood risk without increasing flood risk elsewhere.

It is accepted that there is a need for bungalow accommodation which would provide a specific housing need particularly for the elderly and people with disabilities however due to the flood risk location the development would only be acceptable with safe refuge within the roof space. This requirement does raise questions as to whether this would be suitable for the proposed occupiers and the need to access the roof space in extreme flood events. As stated above it is not considered appropriate to impose conditions limiting the occupancy of the dwellings and therefore this application should be considered as regular housing development.

Furthermore, notwithstanding the failure to demonstrate the wider community benefits as required by the Exception Test, if Members are minded to approve this application there is the potential for other sites within areas at risk of flooding, to be put forward for development. It is therefore considered that this would set an undesirable precedent which would make subsequent development proposals difficult to resist.

#### Highway Implications

There is an existing access off Guntons Road which would serve the proposed development. The width of access would be 5.5m throughout the development which would allow turning provision for large vehicles including refuse collection vehicles. This is an outline application which would agree to access with all other matters reserved to a later stage. It is considered that there would be provision for refuse vehicles and larger vehicles to enter the site, turn and leave in forward gear. The full details would be agreed at the reserved matters stage. As this would be a private road if PCC vehicles were to enter the site they would need to sign an indemnity with the land owner removing any liability for damage to the access road.

Concerns have been made regarding the access and that there is insufficient space to accommodate an access 5.5m in width. The width of access would be secured by condition.

There is currently an independent access serving the host dwelling at no. 90. The Local Highways Authority (LHA) has requested that this access is closed off as it is too close to the access serving the development due to the intensification of use.

The LHA has also requested a short footway is provided either side of the access road to provide safer crossing points for pedestrians. An amended plan has now been submitted showing these footways.

The access plan also indicates available vehicle to pedestrian visibility splays.

The indicative plan, now amended for 5 bungalows, demonstrates that there would be adequate provision of parking space to serve the development. It is noted that the Parish Council and others raised concern regarding the lack of parking space and whether more could be provided. Again this will be agreed at reserved matters stage.

The proposal would provide a safe and convenient access to the development and would accord with policy PP12 of the Adopted Peterborough Planning Policies DPD.

### Impact on neighbouring amenity

The initial scheme proposed 8 no bungalows which was then reduced to 6 and finally to 5. The amended scheme situates the dwellings at a distance of 20m to the dwellings fronting Guntons Road; with the exception of plot 5 which is located 10m to the shared boundary, however this plot has a side elevation towards the eastern boundary. It is considered that the separation distance to existing neighbours as shown on the illustrative plan would be acceptable.

The neighbour most likely to be affected by the development would be at No 88, as the access runs alongside this plot about 2.5m from the side of the bungalow. There is a low fence along this boundary at present and the neighbour's driveway is immediately alongside the fence. The main windows of the bungalow face front and rear. The number of dwellings has now been reduced to 5 which would have a much lesser impact on the occupiers of this dwelling. It is considered that subject to the erection of a suitable boundary treatment to the north of the access the impact on the occupiers of this dwelling would not be unacceptable.

A number of neighbouring residents have raised concern regarding overlooking due to the close proximity of the dwellings to the rear boundaries of these properties. The revised scheme has positioned the amenity area and the access road between the rear boundaries of properties fronting Guntons Road and plots 2, 3 and 4 would be set back 20m from the eastern boundary providing a minimum back to back separation distance of 36m.

The appearance of the dwellings is reserved to a later stage however a condition would be appended to this decision to ensure any first floor windows or windows within the roof would be orientated away from neighbouring properties.

It is noted that comments have been made regarding the indicative layout plan and that the footprint of the existing dwellings fronting Guntons Road is not a true reflection of what is on the ground. This is accepted however, it is considered that the separation distance between these properties and the development is acceptable and would not lead to overlooking or loss of privacy to the occupiers fronting Guntons Road.

The development is for bungalows with no accommodation within the roof space other than as a refuge in an extreme flood event. No designs or appearance of the dwellings are known at this stage. However should the application be approved, then the details of first floor windows and potential overlooking would be considered at reserved matters stage.

Reference has been made to the new footpath which due to the land levels will have direct views into the front of properties no.88 and no.86. These properties are set in to their plot by a minimum of 10m. It is accepted that the land levels at the point of the highway are higher than the dwellings. There is currently no footpath along the eastern side of Guntons Road. The short footpath is required for the safety of pedestrians crossing from the western side of Guntons Road to the site. The relationship of the position of the dwellings and that of the road would be similar to those on the western side of Guntons Road. Whilst there is the potential for views into the ground floor windows of these dwellings this would be the same if people were walking on the road. Due to the increased level of activity at the front of properties the level of amenity is generally lower than at the rear. The set back distance is considered to be acceptable and given the relatively short footpath it is likely that this would only be used infrequently by the occupiers of the development and is acceptable.

Concern has been raised by one of the neighbouring occupiers who runs a counselling service from an outbuilding in the rear garden of the property. There is concern regarding the noise and disturbance arising from the site both during construction and by the future occupants due to the sensory issues of the clients. Unfortunately the Local Planning Authority could not refuse an application on this basis. It is accepted that there would be some disturbance during the construction phase however, this would be for a relatively short time. An informative would be appended advising the applicant of what are the normal and reasonable working hours for construction.

It is considered that the site could accommodate the development without compromising the amenity of the occupiers of existing neighbouring occupiers; hence the proposal would accord with policy PP3 of the Adopted Peterborough Planning Policies DPD and policy CS16 of the Adopted Peterborough Core Strategy DPD.

### Residential Amenity

The dwellings would have a good level of private amenity space, adequate parking provision and would be laid out to achieve a good level of internal space with natural lighting.

An outdoor shared amenity area is indicated on the illustrative plan which would also provide a separation between the development and the existing dwellings in Guntons Road. This space would not be adopted by the city council and the landscaping details of the amenity area and the maintenance of it would be secured by condition or as part of the reserved matters application.

The indicative plan demonstrates that the site could accommodate 5 no. bungalows whilst providing a satisfactory level of amenity for the future occupiers. The proposal therefore accords with policy PP4 of the Adopted Peterborough Planning Policies DPD.

### Visual Amenity

The application is at outline stage and therefore no details have been submitted regarding the design and appearance of the dwellings. The dwellings would be primarily single storey with refuge accommodation within the roof. Most of the development would not be directly visible from Guntons Road and whilst there would be views of the development from the east, along St Martins Road and Middle Road it is not considered that the development of 5 bungalows would adversely impact on the visual amenity of the area. The proposal would therefore comply with policy CS16 of the Adopted Peterborough Core Strategy DPD.

### Landscape Implications

The site is not located within a Conservation Area and there are no trees protected by a TPO in the vicinity. No arboricultural information supports the application. The revised scheme has positioned the dwellings further from the eastern boundary and hence near to trees on third party land. It is unlikely that any trees to the site boundaries would be affected by the development. An Arboricultural Method Statement and Tree Protection Plan would be required at reserved matters stage or secured by condition.

It is not considered that proposal would have any significant landscaping or biodiversity implications and would accord with policy PP16 of the Adopted Peterborough Planning Policies DPD.

### Archaeology

The area is low lying and may have been unsuitable for occupation from the later Bronze Age period. However, cropmark remains associated with prehistoric funerary activity and undated domestic/agricultural activities are recorded to the north, south and west of the subject site. Some of these remains may extend into the proposed development site. Due to the uncertainty it is recommended a scheme of archaeological investigation is secured by condition.

### Human Rights Act

A neighbour has referred to Article 8 of the Human Rights Act stating that '*a person has the substantive right to respect for their private and family life and this also includes the protection of the countryside*'. It is not considered that the development would impinge on the private and family life of any of the occupiers neighbouring the site. It is not considered that the granting of the proposal would be incompatible with Article 8 of the Human Rights Act.

## Equality Act

Reference is made to the Equality Act 2010 and the Public Sector Equality Duty (PSED). Under Section 149 of the Act there is a duty on the Local Authority in all decision making to have regard to the need to:-

- Eliminate unlawful discrimination, harassment and victimisation and other conduct which is prohibited by the 2010 Act.
- Advance equality of opportunity between persons who share relevant protected characteristics and those who do not.
- Foster good relations between the persons who share relevant protected characteristics

It is noted that the application, in part, is to provide accommodation for the applicants' parents in order that care can be provided on site by the applicants. However, there are alternatives that could be considered for example, an annex to the host dwelling and therefore whilst the Local Planning Authority is sympathetic to the applicants' needs the weight which can be given to the personal circumstances is limited in planning terms.

It is considered that due regard has been given to the personal circumstances of the applicant however the Local Planning Authority is only able to give the personal circumstances limited weight as it is considered that alternative measures could be found. The personal circumstances therefore do not outweigh the flood risk issues.

## Misc

Comments received not covered in the above report

- Stability of the land: Concerns have been raised regarding the quality of the land and possible subsidence potential for the development and neighbouring properties. – Office response: This is something that would be picked up under the Building Regulations and appropriate foundations will be used.
- Amenity space: How will it be maintained? The amenity space would serve the 5 dwellings and would be privately maintained; the details would be secured by condition.
- The development would devalue our property – Officer response: This is not a material planning consideration
- Comments have been made about consultation with neighbours – Officer response: The Local Planning Authority has consulted with all neighbouring occupiers on all revisions and has therefore carried out its statutory obligation.
- The Parish Council has raised concern regarding the capacity of the local school. Officer response: Due to the scale of the development it is not considered that this would have a substantial impact on school capacity.

## **6 Conclusions**

The proposal is unacceptable having been assessed in light of all material considerations, including weighing against relevant policies of the development plan and for the specific reasons given below.

## **7 Recommendation**

The case officer recommends that Outline Planning Permission is **REFUSED**

The application site is located within Flood Zone 3 and is therefore at the highest risk of flooding. The proposed residential development, classed as 'more vulnerable' development, is inappropriate

within this location. Whilst it has been demonstrated, by way of a Sequential Test, that there are no more sequentially preferable sites available for the proposed development within the settlement or other settlements within the 'Limited Growth Villages' the proposal would not provide wider sustainability benefits to the community that would outweigh the risk of flooding as required by the Exception Test. Paragraph 102 of the NPPF is clear that both elements of the test have to be passed for development to be permitted. The proposal is therefore contrary to paragraphs 100, 101 and 102 of the National Planning Policy Framework (2012), Policy CS22 of the Peterborough Core Strategy DPD (2011) and Chapter 4 of the Peterborough Flood and Water Management SPD (2012).

Copy to Cllrs Allen, Brown and Simons