

South Cambridgeshire Hall
Cambourne Business Park
Cambourne
Cambridge
CB23 6EA

t: 03450 450 500
f: 01954 713149
dx: DX 729500 Cambridge 15
minicom: 01480 376743
www.scambs.gov.uk



28 August 2012

To: Chairman – Councillor Robert Turner
Vice-Chairman – Councillor David Bard
All Members of the Planning Committee - Councillors Val Barrett, Brian Burling, Lynda Harford, Sally Hatton, Tumi Hawkins, Sebastian Kindersley, David McCraith, Charles Nightingale, Deborah Roberts, Hazel Smith and Nick Wright, and to Councillor Peter Topping (Sustainability, Planning and Climate Change Portfolio Holder)

Quorum: 4

Dear Councillor

You are invited to attend the next meeting of **PLANNING COMMITTEE**, which will be held in the **COUNCIL CHAMBER, FIRST FLOOR** at South Cambridgeshire Hall on **WEDNESDAY, 5 SEPTEMBER 2012 at 10.00 a.m.**

Members are respectfully reminded that when substituting on committees, subcommittees, and outside or joint bodies, Democratic Services must be advised of the substitution *in advance of* the meeting. It is not possible to accept a substitute once the meeting has started. Council Standing Order 4.3 refers.

Yours faithfully
JEAN HUNTER
Chief Executive

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AGENDA

PAGES

PUBLIC SEATING AND SPEAKING

Public seating is available both in the Council Chamber (First Floor) and the Public Gallery / Balcony (Second Floor). Those not on the Committee but wishing to speak at the meeting should first read the Public Speaking Protocol.

PROCEDURAL ITEMS

1. **Apologies**
To receive apologies for absence from committee members.
2. **General Declarations of Interest** 1 - 2
3. **Minutes of Previous Meeting**
To authorise the Chairman to sign the Minutes of the meeting held

on 1 August 2012 as a correct record.

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OUR VISION

South Cambridgeshire will continue to be the best place to live and work in the country. Our district will demonstrate impressive and sustainable economic growth. Our residents will have a superb quality of life in an exceptionally beautiful, rural and green environment. The Council will be recognised as consistently innovative and a high performer with a track record of delivering value for money by focussing on the priorities, needs and aspirations of our residents, parishes and businesses.

OUR VALUES

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- Trust
- Mutual respect
- A commitment to improving services
- Customer service

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"I propose that the Press and public be excluded from the meeting during the consideration of the following item number(s) in accordance with Section 100(A) (4) of the Local Government Act 1972 on the grounds that, if present, there would be disclosure to them of exempt information as defined in paragraph(s) of Part 1 of Schedule 12A of the Act."

If exempt (confidential) information has been provided as part of the agenda, the Press and public will not be able to view it. There will be an explanation on the website however as to why the information is exempt.

Notes

- (1) Some development control matters in this Agenda where the periods of consultation and representation may not have quite expired are reported to Committee to save time in the decision making process. Decisions on these applications will only be made at the end of the consultation periods after taking into account all material representations made within the full consultation period. The final decisions may be delegated to the Corporate Manager (Planning and Sustainable Communities).
- (2) The Council considers every planning application on its merits and in the context of national, regional and local planning policy. As part of the Council's customer service standards, Councillors and officers aim to put customers first, deliver outstanding service and provide easy access to services and information. At all times, we will treat customers with respect and will be polite, patient and honest. The Council is also committed to treat everyone fairly and justly, and to promote equality. This applies to all residents and customers, planning applicants and those people against whom the Council is taking, or proposing to take, planning enforcement action. More details can be found on the Council's website under 'Council and Democracy'.

South Cambridgeshire District Council

Planning Committee – 5 September 2012 – Disclosable Pecuniary Interests

Councillor

Item no: App. No. Village:
Reason:

Item no: App. No. Village:
Reason:

Item no: App. No. Village:
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Item no: App. No. Village:
Reason:

Please return the completed form to Democratic Services prior to the meeting, or leave it with the Democratic Services Officer in the Chamber.

Item no: **App. No.** **Village:**

Reason:

Item no: **App. No.** **Village:**

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Item no: **App. No.** **Village:**

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Item no: **App. No.** **Village:**

Reason:

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

5 September 2012

AUTHOR/S: Planning and New Communities Director

**THE OLD RECTORY, LITTLE GRANSDEN
CONFIRMATION OF TREE PRESERVATION ORDER
01/12/SC 2012 MADE MARCH 2012****Recommendation: the Tree Preservation Order is not confirmed****Deadline for confirmation of provisional Tree Preservation Order: 9 September 2012**

This confirmation was reported to the Planning Committee in August because the Head of Planning & Economic Development was of the view that the application should be presented to the Committee for decision. It was subsequently deferred to this meeting.

Members visited this site on 31 July 2012.**To be presented to the Committee by David Bevan****Site and Proposal**

1. Members will recall deferring the decision on whether to confirm the Tree Preservation Order at the meeting on 1 August. The main officer report with its supporting advice from Counsel is appended to this report.
2. An addendum to the report and statement from the owner were sent to Planning Committee members on 27 July. A response to a letter from the Parish Council's legal advisors was sent to Planning Committee members on 31 July. A verbal update on the letters from the Parish Council and its legal advisors, an email from Dr A.E.Hill and an electronic petition was given at the meeting.
3. Since the August meeting, a structural engineer has been commissioned to produce a report which deals with the potential causes of movement and other factors which are material to reaching a decision, and answer specific questions, as requested by Planning Committee members.
4. Advice has been sought from the structural engineer and our arboricultural consultant, John Cromar, on points raised by the Parish Council and others. This included a letter of 14 August from John Cromar which concluded that data presented in original reports was fit for purpose and allowed accurate conclusions to be drawn.
5. The Head of Planning & Economic Development offered to facilitate a meeting between the Parish Council and owner of the Old Rectory to discuss possible solutions and how they could be funded. The offer was not accepted by the owner, who gave the reasons for her decision, but this should not influence the Committee's decision.

6. The Planning Committee will also consider (Item TBA) whether to give consent to an application to fell the two trees covered by the Tree Preservation Order which is the subject of this report. The decision on that application should follow and relate to the decision on whether to confirm the Tree Preservation Order.

Representations from the public

7. Five letters have been received since the August Planning Committee from the occupiers of 2 Church Street, 8 Church Street, 77 Main Road, 10 Primrose Hill and 4 Windmill Close in Little Gransden. The letters make these points:
 - the trees are in a private garden and cannot be seen from many places in the village so are not a public amenity
 - the campaign to keep the Tree Preservation Order does not have the backing of the whole village
 - many who signed petitions (including the writers of the letters) did not have the full facts and understand the issues, cost implications and impact on the owners
 - the writers should not be counted as supporting the confirmation of the Tree Preservation Order despite signing petitions in support
 - professional reports have explained why, reluctantly, the trees should be felled and no further expenditure on reports is justified
 - as council tax payers they do not want themselves or the Council to fund keeping the trees

Structural engineer's report

8. Following the requests made at Planning Committee, a second independent structural engineer's report was commissioned. This has been produced by Peter Woolley, Managing Director at Hannah-Reed and is appended to this report. It includes the brief given by this Council. Key points made in the report are as follows:

Concerns about the methodology and data raised by Dr Biddle and Richard Jackson

9. The structural engineer says that the concerns raised by these consultants commissioned by the Parish Council are answered by visiting the site (which the consultants were not able to do) or are invalid or do not affect the conclusions reached.

Causes of the movement

10. The structural engineer notes the consensus in reports which identifies the cedar tree as the cause of movement, and deals with points raised by Dr Biddle who gives qualified acceptance to this view and Richard Jackson who dissents from this view.
11. Following his own investigation the structural engineer believes that the cedar, and possibly the wellingtonia, are the cause of movement and not the existing historic foundations to the house or modern changes to the building.

Rates and trends of cracking

12. The structural engineer identifies the degree and increase in seasonal movement and settlement since March 2010. There is a risk identified that the amplitude of seasonal cyclic movement will continue to increase.

Seriousness of the movement

13. The structural engineer says that the movement is not serious in purely structural terms, but is enough to give rise to damage. It represents a significant nuisance to the owner in terms of: worry about foundation instability; continued needs for repairs and redecoration; doors and windows likely to bind; possible difficulty in insuring and/or selling the property; and consequent reduction in value.
14. The engineer makes a distinction between “normal and superficial cracking arising from thermal and moisture effects in superstructure, which many people are willing to live with, and movements arising from foundation instability, which most people in my experience find worrisome and intolerable”.

Solutions for the movement and degree of risk

15. The structural engineer says that one solution would be the removal of the cedar and, to eliminate risk from a second potential cause, the wellingtonia. He does not believe that a root barrier would work in this case and agrees that underpinning is the appropriate alternative solution if the tree(s) are not felled.
16. His approximate estimate of the costs of underpinning of £40,000 including VAT is greater than the approximate estimate of £22,000 plus building regulation fees given by our first structural engineer, Andrew Firebrace Partnership.
17. The structural engineer believes that following underpinning there is more risk than that identified by Andrew Firebrace Partnership. He says that tree roots are likely to travel past the foundation into the building and that the impact may not be limited to minor cracks.

Material considerations

18. The high amenity value of the two trees which are the subject of the Tree Preservation Order has been accepted. Their loss would detract from the setting of the listed Old Rectory and the conservation area and from a number of public views. The amenity value would, in isolation, fully justify the confirmation of the Tree Preservation Order.
19. The second question which has to be addressed in deciding whether to confirm the Order is whether it would be expedient to do so. Material considerations are the impact of the trees on the listed building and its owners and, if the impact is significant and harmful, the nature and costs of an appropriate solution.
20. Counsel's advice highlighted that “In this case, unusually, the Council has available to it a great deal of information and analysis”. That information and

analysis has been supplemented by the second independent structural engineer's report.

21. There is a consensus between the majority of the reports produced on the causes of movement and solutions for dealing with it which the new structural engineer's report supports. The new report also deals with arguments which partly or wholly dissent from the majority view.
22. The new structural engineer's report (and majority view) identifies the cedar in particular as the cause of movement rather the historic construction or modern changes to the house, and that appropriate solutions are felling or underpinning with the latter costing approximately £40,000 including VAT. The structural engineer notes the risk remaining following underpinning.
23. The same report cites the wellingtonia as a possible source of the movement. The officers' view is that Tree Preservation Order status and protection would not be justified for the wellingtonia alone. This is because it has less amenity value than the cedar, has been damaged by lightning and its growth has been suppressed by the cedar. There are doubts over its stability if the cedar was felled.
24. The new structural engineer's report identifies that the movement is causing a significant nuisance to the owner which goes beyond the level of superficial and 'everyday' cracking which many owners might chose to live with.

Options

25. There are three main options available to the Council.
 1. That the Council accepts that the trees will be felled. If it decides not to confirm the Tree Preservation Order the protection of the trees will end.
 2. That the trees will be felled with an assurance or requirement that they will be replaced. The owners have written confirming that they will replace the trees and the Council could decide to decline the Tree Preservation Order with the knowledge of that assurance. Alternately, the Tree Preservation Order could be confirmed on the basis that an application to fell might be accepted with a condition requiring suitable replacement planting. This may be considered unnecessary given the owner's assurance.
 3. That the Tree Preservation Order is confirmed with the intention that future applications to fell will likely not be accepted. If the Council takes this approach then it would incur a potential liability for the cost of statutory compensation on any subsequent refusal of consent to fell. This would be likely to equate to the costs of underpinning as set out above less the cost of removing the trees (estimated as £10,000 - £12,000), with the costs being those which could be reasonably expected before work starts.
26. If the Council confirms the Order and refuses consent for felling there are two routes it could take with respect to compensation. These are set out in Counsel's advice appended to this report.

Conclusions/summary

27. There is a consensus that the trees, particularly the cedar, have a high amenity and heritage value which, taken alone, would fully justify the confirmation of the Tree Preservation Order. The expediency of confirming the Order also has to be considered and this includes the impact of the trees on the listed Old Rectory and its owners, and the nature and cost of solutions for any significant problems caused by the trees.
28. The consultants commissioned by this Council and the majority opinion of other consultants who have been engaged on this case identify the tree(s) as the cause of movement and that the appropriate solutions are felling the trees or underpinning.
29. The professional view of officers is that while the amenity and heritage value of the trees is high, this is outweighed by the cost of underpinning which would be a potential liability for the Council. Officers believe that the harmful impact will be mitigated in the longer term by replacement planting achieved through the commitment given by the owner.

Recommendation

30. That the Tree Preservation Order is not confirmed because:
 - The trees are causing movement to the Old Rectory which is resulting in a level of damage to the listed building and a significant nuisance to the owners.
 - Confirmation followed by an approval for an application to fell with a condition requiring replacement planting is not necessary given the written commitment of the owner.
 - The costs of underpinning, which is the appropriate solution if the trees are not felled, is a potential liability for the Council and, even when reduced by the cost of felling, outweighs the high amenity and heritage value of the trees.

Contact Officer: **David Bevan** – Conservation & Design Manager
01954 713177

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SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

1 August 2012

AUTHOR/S: Executive Director – Corporate Services /
Head of Legal and Democratic Services

**THE OLD RECTORY, LITTLE GRANSDEN
CONSIDERATION OF WHETHER TO CONFIRM TREE PRESERVATION ORDER
01/12/SC 2012 MADE 9 MARCH 2012****Purpose**

1. To seek a determination from Committee as to whether this Tree Preservation Order, made provisionally on 9 March 2012, and relating to a Cedar and a Wellingtonia situate at and affecting The Old Rectory, Little Gransden, should be confirmed prior to it lapsing on 8 September 2012.
2. This is a key decision because
 - it is likely to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates.
 - it is not in accordance with the revenue budget, capital programme or borrowing limits approved by the Council, subject to normal virement rules.
 - it increases financial commitments (revenue and / or capital) in future years above existing budgetary approvals.
 - it is of such significance to a locality, the Council or the services which it provides that the decision-taker is of the opinion that it should be treated as a key decision.

Recommendations

3. That the Executive Director – Operational Services recommends to Planning Committee that Tree Preservation Order 01/12/SC 2012 is not confirmed and accordingly be allowed to lapse on 9 September 2012 in accordance with Regulation 26(2) of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 ('the 2012 Regulations').

Reasons for Recommendations

4. (a) If the Tree Preservation Order is confirmed and any subsequent application to fell the preserved trees is refused, then it is considered the likely quantum of the Council's potential liability to the affected property owner for statutory compensation is disproportionate to the amenity value afforded by the retention of the trees.
- (b) If the Tree Preservation Order is confirmed and any subsequent application to fell the preserved trees is then approved in the face of this protection, the affected property owner and the Council will both have unnecessarily incurred additional cost and delay in arriving at the same position, with attendant lack of certainty for all stakeholders in the meantime.

Background

5. Tree Preservation Order 01/12/SC 2012 was provisionally made on 9 March 2012, in respect of a Cedar and Wellingtonia located within the curtilage of and in proximity to the Old Rectory, Little Gransden. The Old rectory is a Grade II Listed Building situate within a designated conservation area.
6. Specialist reports fully indicate these trees, especially the Cedar, are causally implicated in damage to the fabric of The Old Rectory being occasioned through the mechanism of seasonal movement.
7. The Tree Preservation Order was made as a precautionary measure following the receipt of a statutory notification given on behalf of the property owner, proposing the felling of the trees concerned in order to address this seasonal movement and resulting damage being suffered by The Old Rectory. Such notification was necessary due to the property and trees being within the conservation area, and prompted significant local representations seeking preservation of the trees.
8. The Tree Preservation Order was duly made in recognition of the acknowledged contribution made by the trees concerned to the amenity of the locality, which is considerable given their establishment, scale and setting. The Order was made so that appropriate consideration could be given to the technical studies already to hand, and to enable these to be supplemented by further expert input required to assist the Council's understanding of the relationship between the trees and the deterioration of the listed building.
9. The provisional protective effect of the Tree Preservation Order endures for an initial 6 month period within which the Order has to be confirmed or the same then lapses. This 6 month period expires on 8 September 2012.
10. The general effect of the Tree Preservation Order during the provisional period and after, if confirmed, is that the trees concerned may not be felled or otherwise significantly worked upon without formal consent first being obtained.
11. If a preserved tree is proven to be causing damage to property, and if formal consent is then refused for tree works to remediate that damage, Regulation 24 of the 2012 Regulations provides for the property owner to be compensated for future damage to the property that is reasonably foreseeable. The policy purpose of such compensation is to recognise that any continuing public amenity in the preserved tree has been secured by diminishing the private value or benefit of the affected property when compared with its condition if the tree was removed or suitably worked upon.
12. The potential liability to pay compensation is therefore a material consideration when determining whether to confirm a Tree Preservation Order when it is suggested damage is being caused.
13. The Council now has to consider whether or not to confirm the Tree Preservation Order. It is likely, and the Council has been informed, that any decision to confirm the Tree Preservation Order will result in a timely application for consent to remove the protected trees on the basis of their alleged implication in the damage sustained to The Old Rectory.
14. Given the competing considerations and aspirations that have been advanced, the complexity of the technical assessments, the very recent changes to the regulatory framework relating to Tree Preservation Orders (implementation of which broadly

coincided with the issue of this Order), and the potentially significant compensation liabilities that might result, specialist advice has been sought on the question of confirmation from Counsel expert in this area of practice.

15. The Advice of Dr Charles Mynors, barrister at law of Francis Taylor Building, Inner Temple, London, is appended to this report. Dr Mynors is widely acknowledged to be a leading authority on the law relating to trees and forestry, and also that relating to built heritage assets. Dr Mynors is the author of the standard texts commonly used by practitioners in both of these fields.

Considerations and Options

16. These are set out and fully discussed in Counsel's Advice as appended, so generally need no further amplification here.
17. However, and as flagged by Counsel at paragraph 58 of his Advice, where his 'Option C' is discussed (ie to confirm but not to contest liability for compensation), it is lawfully open to the Parish Council to underwrite part or all of the liability in recognition that this is an exceptional issue of very local concern.
18. Whilst the Parish Council will undoubtedly not have a current budget for such expenditure, and the sums involved will be substantial in the context of the 'normal' reserves expected to be maintained by a small parish, there is no lawful or practical reason why any contribution offered could not be incorporated in the Parish Council budget and resulting precept for the next financial year. The existence or absence of such a contribution is properly capable of being a consideration material to the question of confirmation.

Implications

19. Financial	Confirming the Tree Preservation Order contrary to officer recommendation is likely to give rise to a compensation liability in the range of £20,000 to £50,000 for remediation works plus attendant professional fees and costs, which, if the compensation element is litigated, may exceed any compensatory award severalfold.
Legal	Counsel has been engaged to advise, and that Advice is appended to this report.
Staffing	No staffing issues are indicated.
Risk Management	The risks inherent in the determination being sought are set out in Counsel's Advice as appended.
Equality Impact Assessment completed	No No equalities issues are indicated.
Climate Change	No significant climate change issues are specifically indicated although two substantial trees may be removed consequent upon this determination.

Consultations

20. As is described in Counsel's Advice, as appended to this report (paragraphs 9 to 19), there has been considerable lay, democratic, and specialist professional engagement arising from the notification of the initial felling proposal and from the subsequent making and publicising of the Tree Preservation Order.

21. Counsel has had sight of all of this material and summarises the key technical content in his Advice; the working file contains all reports and representations that have been received, which can be inspected by members.
22. Some 47 personal representations have been received seeking the continuing preservation of the trees concerned and, whilst many of these were of a template or pro-forma nature, the following recurring considerations were flagged by the originators:
- The trees are essential to village character/history/sense of place
 - The trees are local landmarks
 - The trees are healthy
 - Have been present for 250 to 300 years
 - The trees are irreplaceable
 - Removal will result in lost wildlife habitat
 - The trees are not 'close' to the property
 - Causal linkage to property damage not proven
 - Property damage is due to soil/weather conditions
 - Property damage is due to alterations performed
 - Alternatives to removal not investigated
 - Cheapest option (removal) should not be pursued
 - Weight of local opinion is against removal

Conclusions / Summary

23. It is clear the trees currently protected by the provisional effect of Tree Preservation Order 01/12/ SC 2012 afford a much-valued public amenity in the village of Little Gransden. The key task for members in determining whether or not to confirm the continuing effect of the Tree Preservation Order (and on what terms) is to decide whether that acknowledged public amenity value balances and outweighs the private interests of the owner of The Old Rectory who desires to address the deterioration of that property by (ultimately) removing the trees concerned.
24. If it is concluded that the balance is in favour of requiring the retention of the trees, the consequence will be that a significant and unbudgeted liability for compensation will accordingly fall to the public purse (regardless of whether borne at a District level, Parish level, or allocated between them in some proportion to be determined).
25. The professional view of Officers is that the causal linkage between the trees and the damage to the property is established such that it is reasonably foreseeable future damage will occur if they remain without remedial work being performed. The likely compensation liability to underwrite the cost of remedial work is considered disproportionate to the amenity value afforded by the trees, hence the recommendation set out above.

Background Papers: the following background papers were used in the preparation of this report:

Working file for Tree Preservation Order 01/12 SC 2012
 Town and Country Planning Act 1990
 Town and Country Planning (Tree Preservation) (England) Regulations 2012
 Advice of Dr Charles Mynors dated 23 July 2012

Contact Officer: Gary Duthie- Senior Lawyer Telephone: (01954) 713022

In the matter of the Town and Country Planning Act 1990
And in the matter of the South Cambridgeshire District Council Tree Preservation Order
01/12/SC
And in the matter of the Old Rectory, Little Gransden, Bedfordshire, SG19 3DU

Advice

Background

1. The Old Rectory at Little Gransden is an attractive building built originally in the sixteenth century and extended in 1840. It was listed by the Secretary of State as a building of special architectural or historic interest, Grade II, in 1986. It is in a conservation area, designated by South Cambridgeshire District Council in 2006 following an appraisal carried out in 2005. The Old Rectory has been owned and occupied by Mr and Mrs Seabright since 1998, and is now for sale on the open market at £2.5 million.¹
2. In the garden to the north-east of the Old Rectory are two trees, a cedar and a wellingtonia. They are apparently visible from a number of local viewpoints, and are considered by many local residents to be of considerable amenity value. The cedar is in reasonably good condition; the wellingtonia appears to have been struck by lightning at some time in the past, and its western side has been suppressed by the proximity of the cedar.

¹ *Historic Properties for Sale in East Anglia*, Country Life, 12 July 2012.

The proposed works

3. The Council received on 30 January 2012 from Mrs Seabright a notification under section 211 of the Town and Country Planning Act 1990 of the proposed felling of a cedar and a wellingtonia tree in the garden of the Old Rectory. It has been supplied with the following documents (listed below in date order) said to justify the works:
 - a site investigation report by Mat Lab Limited for Crawford & Company Adjusters (UK) Ltd (“Crawford”), dated 23 March 2010, containing foundation exploratory hole records and a penetrometer plot;
 - a laboratory report, also produced by Mat Lab for Crawford, dated 7 April 2010, containing a test schedule, root identification, swell / strain test results, moisture content readings, plasticity index readings and Atterberg limit calculations;
 - an addendum technical report by Crawford, dated 4 May 2010;
 - an arboricultural implication assessment by OCA UK Ltd, and a consultant report advice note, both dated 28 May 2010;
 - an arboricultural report from Writtle Park Ltd dated 10 October 2011 but based on a visit on 13 September 2011; and
 - a report by Crawford dated 23 January 2012 reviewing the results of level monitoring carried out at roughly quarterly intervals from 23 March 2010 to 20 December 2011.

4. The Writtle Park report accompanied the section 211 notification, and the level monitoring report was supplied to the Council prior to that notification. I am not entirely clear whether the other reports accompanied the notification or were supplied separately, but it matters not, since they are all now in the possession of the Council. Crawford, OCA and Mat Lab are all firms with considerable experience in this area of activity.

5. It appears that the Old Rectory is built on a thin layer of clay, above lighter sandy soil. The level monitoring plan is slightly confusing, as it is somewhat diagrammatic. And the more detailed plan included with the house sale particulars² is also unhelpful, as the north point appears to be incorrectly oriented.³ However, the level monitoring data seems to show that seasonal movement is indeed occurring at the Old Rectory, with the greatest movement being along the side closest to the two trees. And the root identification showed the presence of live cedar roots.

6. In the light of that technical information, the owners of the Old Rectory considered that it would be prudent to fell the cedar, to prevent any further subsidence damage. They also proposed to fell the wellingtonia, as the removal of the cedar would lead to an increased risk of it falling. They accordingly notified the Council of the proposed works, under section 211 of the Act.

The tree preservation order

7. The notification was publicised, and was the subject of much local concern and controversy.

8. As a precautionary measure, on 9 March 2012, the Council made the South Cambridgeshire District Council Tree Preservation Order (01/12/SC) (“the Order”), a tree preservation order under section 198 of the 1990 Act and the Town and Country Planning (Trees) Regulations 1999, to protect the two trees while it considered whether to allow them to be felled.

² http://www.bidwells.co.uk/view_property.php?property_id=CAM110273&property_type=residential; brochure, p 10.

³ Compare the plan at p 11 of the brochure.

Local reaction

9. The Parish Council took an active role in coordinating opposition to the proposed felling, and support for the making and confirmation of the Order.

10. Dr Charles Turner, a retired university lecturer in geological sciences living in Great Gransden, in a memorandum of 5 March 2012 to the Parish Council, considered carefully the underlying geological conditions, and concluded that they (not the trees) had been the cause of the structural problems at the Old Rectory – any more than they had been the cause of those at the nearby parish church.

11. Dr Giles Biddle, the eminent arboriculturist and author of the standard work in this field⁴ carried out a desktop study based on the material listed above. In a report for the Parish Council dated 15 March 2012, he concluded as follows:

“29. The cedar is at a distance from the building where the risk of damage is considered to be extremely remote. However, if there is no other possible vegetation, I would agree that the cedar would be the most likely cause of the movement and damage

30. There is no evidence to suggest the involvement of the wellingtonia.

31. If it is definitely established that the cedar is the cause, I agree that felling would prevent any seasonal movement. There is no risk of long-term heave. ...

32. However, in this situation it would appear that the underpinning to correct the variations in foundation depth would be a more appropriate remedy.

...

34. ... I consider that a root barrier is unlikely to provide an effective remedy.”

He recommended the imposition of a tree preservation order, so that any resulting application for consent to fell the cedar could supply further information, and so that a replacement tree could be required. An order could also protect the wellingtonia, which had not been implicated in any damage.

⁴ *Tree Root Damage to Buildings*, Willowmead Publishing, 1998.

12. Mr Mike Miller of Richard Jackson, a firm of engineers very familiar with problems of this kind, in a report for the Parish Council dated April 2012, noted that the damage to the house was slight (category 2 in terms of the BRE Digest 251). He concluded that, if the trees were going to cause problems to the house, they would have done so many years ago, particularly in view the relatively thin clay layer. And he too recommended obtaining further information.
13. The Chairman of the Parish Council in a summary report dated 5 April 2012 concluded that the underpinning of the area under discussion would remedy the situation and prevent further seasonal movement, avoiding the need for the trees to be felled.
14. Whether as a result of the Parish Council's activity or otherwise, a large number of local residents wrote to the Council, opposing the felling and supporting the Order – drawing attention to the amenity value of the trees and expressing the hope that some way could be found to save them. To that end, consent under the Order (if sought) should be refused unless there was absolutely no alternative

Reports obtained by the Council

15. More recently, the Council has sought independent advice from John Cromar's Arboricultural Company Limited and AFP Consulting Engineers Ltd.
16. Mr Cromar considers the material summarised above, and also the possible remedial measures. He concludes that the trees are of sufficient amenity value to justify being protected by a tree preservation order. As to causation of damage, he rejects the analysis of Dr Turner and usefully summarises the position as follows, in a subsequent email:

“the trial pit findings ... make it clear that a clay soil (39% Plasticity Index) does underlie the relevant part of the structure; that live cedar roots are present below the structure; and that seasonal movement has been recorded to the damaged part of the building, which, put simply, is going up and down seasonally (up winter, down summer). **All of this establishes to the balance of probabilities and indeed, in my view, beyond reasonable doubt, that the cedar is causing the damage to the structure by way of clay-related shrinkage.**”

17. And as to possible remedies, he explains in his report that neither regular pruning nor the installation of a root barrier are likely to be effective as means of preventing future damage. On the other hand, he suggests that:

“it appears perfectly possible to install a relatively small amount of underpin to support the affected section of external and internal walls. ... The costing of any scheme for repair would allow a comparison to be made between repairing the property and removing the tree as possible solutions.”

18. John Howlett of AFP summarises the position somewhat along the same lines:

“We concur with the previously expressed opinions that the cracking and vertical movement has been caused by seasonal changes in the moisture content of the thin layer of clay beneath the foundations, caused by the extraction of water by the cedar tree, and perhaps also by the wellingtonia tree. The cracking is relatively minor, but nevertheless presents the owner with the expense of having to frequently make good the cracks and decorations. It also makes it difficult to sell the property, leading inevitably to a diminution in the value of the property.

The level monitoring indicates that significant movement has only occurred along the east side of the building. Seasonal structural movement will continue ... if it is not underpinned. ... Underpinning the east wall would prevent it from undergoing seasonal movement.

...

The cost of this work is likely to be in the region of £20,000. In addition to this there would be professional fees of around £2,000 and building regulations fees.”

19. I am instructed that the Council’s internal advice is that these costs may be a significant under-estimate.

My instructions

20. The Council is now considering whether or not to confirm the Order, particularly in the light of the possibility – indeed, probability – that, if it is confirmed, the owners of the Old Rectory will put in an application for consent under the 2012 Regulations to fell the trees, and, if such consent is not forthcoming, submit a claim for compensation.

21. In the light of the foregoing, I am asked to advise the Council as to the best way forward.

Confirmation of the order

22. The Order will have effect by virtue of section 201 of the Act until it has been confirmed; but it must be confirmed within six months, that is, by 9 September 2012, if it is not to lapse (Town and Country Planning (Tree Preservation) (England) Regulations 2012, reg 26(2)(b)).

23. The considerations to be taken into account by a planning authority when deciding whether or not to confirm a tree preservation order are presumably the same as those that apply when it is considering whether to make an order in the first place under section 198(1), namely:
 - whether the preservation of the trees is desirable in the interests of amenity; and
 - whether it is expedient to achieve that by the making of a tree preservation order.

24. In the present case, there seems to be an almost universal consensus that the preservation of the trees is intrinsically desirable. Even the owners (in a letter of 15 March 2012) speak of their “desperation” to keep the trees as a beautiful feature of their garden. And clearly the local people are all equally desperate to keep them.
25. However, whilst the preservation of the trees is thus clearly desirable, that does not of itself necessarily mean that it is expedient for the Council to make (or confirm) a tree preservation order.
26. I agree that it seems highly likely that, if the tree preservation order is confirmed, an application will be made for consent under regulation 16 of the 2012 Regulations for the felling of the cedar and, possibly, the wellingtonia.
27. If consent were to be granted for the felling of either or both of the two trees, it would be possible for a condition to be imposed requiring a replacement to be planted (as suggested by Dr Biddle). That would be a legitimate reason for confirming the order; although, if that were to be the sole reason, it would be sensible for the Council to indicate that to the owners of the house at the time the order is made, so that they know where they are. On the other hand, the Council may feel that the owner of a property such as this is likely to want to create and maintain an attractive garden with suitable trees, and it may be unnecessarily heavy-handed to impose a condition solely for that reason, and thus equally heavy-handed to confirm the order solely in order to have the opportunity to impose such a condition.
28. If on the other hand the application for consent is refused, the owners – or possibly their successors in title if the house has by then been sold – will almost certainly submit a claim for compensation. And if the Council refuses to pay compensation, the

owners will then presumably pursue their claim in the Lands Chamber of the Upper Tribunal (the successor to the Lands Tribunal).

Relevance of liability to pay compensation

29. If it seems likely that such a claim would succeed, it would be perfectly proper (and lawful) for the Council to confirm the order, and refuse consent for felling, knowing as it does so that the probable consequence would be that it would be liable to pay compensation. That would mean that the trees would remain, and continue to enhance the amenity of the neighbourhood, and the owners (and their successors in title) would not be out of pocket as a result. But the Council would have to pick up the cost of the underpinning.
30. Alternatively the Council could decide that in the abstract it would be desirable to keep the tree, but not at such a price; in which case it would simply decline to confirm the order, knowing that the probable consequence would be the loss of the tree.
31. That such a consideration is relevant has very recently been confirmed by the Supreme Court in *Health and Safety Executive v Wolverhampton City Council* [2012] UKSC 34, a case relating to the exercise of the discretionary power to revoke a planning permission. At the outset of his judgment, Lord Carnwath set out the question to be decided:

“1. ... The question, as agreed by counsel for the purposes of the appeal, is:

“In considering under section 97 of the Town and Country Planning Act 1990 whether it appears to a local planning authority to be expedient to revoke or modify a permission to develop land, is it always open to that local planning authority to have regard to the compensation that it would or might have to pay under section 107?”

32. As to the answer to that question, he started his analysis as follows:

“24. ... In simple terms, the question is whether a public authority, when deciding whether to exercise a discretionary power to achieve a public objective, is entitled to take into account the cost to the public of so doing.

“25. Posed in that way, the question answers itself. As custodian of public funds, the authority not only may, but generally must, have regard to the cost to the public of its actions, at least to the extent of considering in any case whether the cost is proportionate to the aim to be achieved, and taking account of any more economic ways of achieving the same objective. Of course, the weight attributable to cost considerations will vary with the context. Where, for example, the authority is faced with an imminent threat to public security within its sphere of responsibility, cost could rarely be a valid reason for doing nothing, but could well be relevant to the choice between effective alternatives. So much is not only sound administrative practice, but common sense.

33. After considering the authorities, he concluded:

“48. In considering these arguments, and the reasoning of the courts below, I hope I will be forgiven for going back to the "simple approach" with which I started. As I said then, and as Richards J accepted, general principles would normally dictate that a public authority should take into account the financial consequences for the public purse of its decisions. I also said that, at least at first sight, I could find nothing in section 97 which requires it to be treated as an exception to those principles. Nothing I have heard or read in this case has led me to change that view.

49. The principal argument to the opposite effect is the appeal to "consistency". I accept of course the ordinary presumption that Parliament is taken as using the same words in the same sense. I am aware also that in planning law the apparently innocent expression "material considerations" has acquired an impressive overburden of case law going back more than 40 years. However, none of the authorities before *Alnwick* were directed to the provisions related to revocation or discontinuance. Sufficient consistency is given to the expression if the word "material considerations" is treated as it is elsewhere in administrative law: that is, as meaning considerations material (or relevant) to the exercise of the particular power, in its statutory context and for the purposes for which it was granted.

50. So read, the Court of Appeal's interpretation creates no inconsistency between section 70 and section 97. The meaning is the same, but the statutory context is different. Under section 70 the planning authority has a duty to act, and it has a limited choice. It must either grant or refuse permission. Its decision must be governed by considerations material to that limited choice. Further, the decision normally has no direct cost consequences for the authority (unless

exceptionally it has a direct financial interest in the development, when other constraints come into play).

51. Under section 97, by contrast, the authority has no obligation to do anything at all; it has a discretion whether to act, and if so how. Secondly, if it does decide to act, it must bear the financial consequences, in the form of compensation. No doubt under section 70, planning permission cannot be "bought or sold". But section 97 creates a specific statutory power to buy back a permission previously granted. Cost, or value for money, is naturally relevant to the purchaser's consideration. To speak of the "self-interest" of the authority in this context is unhelpful. A public authority has no self-interest distinct from that of the public which it serves."

34. In that case, the issue was thus not how the planning authority should determine a planning application (which it has to do, one way or the other, and leads to no compensation liability) – but whether, having granted permission, it should revoke it (which is a discretionary function, but does lead to compensation liability).
35. In the present case, the question is whether the Council should make and confirm a tree preservation order – which is a discretionary function, and does, in effect, lead to compensation liability. The principles are thus the same, and it is clear from *HSE v Wolverhampton* that the existence and extent of the compensation liability is indeed a consideration that can and indeed should be taken into account in deciding whether it is "expedient" to make and confirm an order.
36. Of course, if it seems likely that such a claim for compensation would fail, the Council could confirm the order, refuse consent, and resist any claim that might arise. However, it is clearly never possible to be entirely certain as to the outcome of any litigation, and so it would still be necessary for the Council to consider what is the probability of failure – and what are the consequences.
37. The next question to consider is therefore whether such a claim would succeed.

Liability to pay compensation

38. Although the tree preservation order in this case has been made in accordance with the model order in the Schedule to the Town and Country Planning (Trees) Regulations 1999, it will have effect from 6 April 2012 with the omission of all of its provisions other than any that have effect for the purpose of identifying the order or for the purpose of identifying the trees, groups of trees or woodlands in respect of which the order is in force (Planning Act 2008, s 193(2)).

39. The liability pay compensation will therefore be determined in accordance with not under article 9 of the order itself but under regulation 24 of the 2012 Regulations – although the two provisions are in fact virtually identical. Regulation 24 thus provides, so far as relevant,

“24 (1) If, on a claim under this regulation, any person establishes that loss or damage has been caused or incurred in consequence of

(a) the refusal of any consent required under these Regulations ...

he shall, subject to paragraphs (3) and (4), be entitled to compensation from the authority.

...

(4) In any [case other than the refusal of consent for felling in the course of forestry operations], no compensation shall be payable to a person ...

(b) for loss or damage which, having regard to the application and the documents and particulars accompanying it, was not reasonably foreseeable when consent was refused or was granted subject to conditions;

(c) for loss or damage reasonably foreseeable by that person and attributable to that person’s failure to take reasonable steps to avert the loss or damage or to mitigate its extent ...”

The wording of this regulation is virtually identical to that of article 9 of the model tree preservation order in the 1999 Regulations.

40. As for what must be supplied along with an application for consent, regulation 16(1) provides:

“Subject to the following provisions of this regulation, an application for consent to the cutting down, topping, lopping or uprooting of any tree in respect of which an order is for the time being in force shall—

- (a) be made in writing to the authority on a form published by the Secretary of State for the purpose of proceedings under these Regulations;
- (b) include the particulars specified in the form; and
- (c) be accompanied, whether electronically or otherwise, by—
 - (i) a plan which identifies the tree or trees to which the application relates;
 - (ii) such information as is necessary to specify the work for which consent is sought;
 - (iii) a statement of the applicant's reasons for making the application; and
 - (iv) appropriate evidence describing any structural damage to property or in relation to tree health or safety, as applicable.”

Again, this is similar to the wording of article 6 of the 1999 model order.

Approach of the Tribunal

41. The Upper Tribunal has recently considered the entitlement to compensation for the refusal of consent under a tree preservation order, in *John Lyon Trustees v Westminster* (2012] UKUT 117 (LC), decided in relation to compensation under article 9 in a subsidence case – very similar to the position that would arise of consent were to be refused in the instant case – where a claim had been made for compensation for the cost of carrying out underpinning said to have been necessary as a result of the continuing presence of a nearby protected tree. *John Lyon* thus summarises the approach that would be adopted if the Council were to refuse to pay compensation and the owners were to refer the claim to the Tribunal; the same approach should therefore also be adopted by the Council in deciding whether or not to admit the claim in the first place.
42. At paragraphs 56 to 59, the Tribunal summarised the position as follows (paragraphs split for ease of explanation):

“56. In my judgment the correct analysis of the legal position is as follows. Compensation is payable for loss or damage caused or incurred in consequence of the refusal of consent to fell the tree (article 9(1) [*now regulation 24(1)*]). It is for the claimant to establish that

- [i] such loss or damage was caused or incurred and
- [ii] that it was caused or incurred in consequence of the refusal of consent.

57A. It is not suggested that any physical damage occurred after the refusal of consent. In effect, the basis of the claim is

- [i] that the continued presence of the tree roots created a risk of subsidence damage occurring in future,
- [ii] that in the light of such risk it was appropriate to carry out works of underpinning, and
- [iii] that the claimant had such works carried out in March 2005.

57B. The relevant loss or damage is the cost of the underpinning works (not, as [counsel for the claimant] suggested in argument, the dehydration of the sub-soil and ongoing inhibition of rehydration). It is a claim for the cost of preventive works.

57C. Evidence of past damage to the building is relevant only to the question whether there was a risk of subsidence damage occurring in future.

58. The test of causation for the purposes of the present claim must be whether it was reasonable for the claimant to have had the works carried out when it did. If it was not reasonable to have had the works carried out, the cost was not caused or incurred in consequence of the refusal of consent.

59A. Whether it was reasonable to have had the works carried out must depend on

- (a) the degree of risk of future subsidence occurring, and
- (b) the appropriateness of underpinning as a response to that risk.

Both those matters fall to be considered as at the time the works were put in hand.

59B. Thus, for example, a relatively low risk of damage that would be hugely expensive to repair might make it reasonable to incur modest costs in carrying out preventive works. If it did, the loss suffered in incurring those costs would have been caused by the refusal of consent. While (a) above involves the consideration of foreseeability, the question is one of the degree of risk; and causation is only established on the basis of (a) and (b) together.

59C. In relation to the cost of the works, the claimant needs to establish

- (c) that the works in their nature and extent were reasonable, and
- (d) that the cost was reasonable. ...

59E. Article 9(4)(b) [*now regulation 24(4)(b)*] provides a defence for the compensating authority where the loss or damage was not reasonably foreseeable at the time when consent was refused. ... Where the claim is for the cost of preventive works the question is whether it was reasonably foreseeable that (a) and (b) would be established.

59F. With these considerations in mind I turn to consider whether, when the works of underpinning were undertaken in March 2005, there was a risk of future subsidence if the robinia was not felled, and if so the extent of such risk. For that purpose it is necessary to establish the cause of the previous damage (I consider the appropriateness of underpinning below).”

43. Assuming that analysis is correct, the first question that will fall be considered by the Tribunal or the authority (in the light of paragraph 58) is whether it was reasonable for the claimants to have had underpinning works carried out when they did. And that must depend on two further questions (see paragraph 59A), to be answered from the point of view of the claimants at the time the underpinning was carried out:
- (a) what was the risk of future subsidence occurring *as a result of the continuing presence of the tree in question?*
 - (b) was the underpinning a reasonable response to that risk?
44. The words in italics are not in the decision, but they must presumably be implied – otherwise it would be possible for compensation to be claimed in a case where it was reasonable to carry out underpinning works in response to a high risk of subsidence occurring for reasons that had nothing to do with the tree in question (such as inadequate foundations on shallow soil, or the proximity of an underground stream). And this analysis is borne out by paragraph 59F, in which the member goes on to consider “whether there was a risk of future subsidence *if the robinia was not felled*”.
45. Assuming that the answer to question (b) above was “yes” – so that the underpinning was indeed, from the point of view of the claimants at the time, a reasonable response to the risk of subsidence occurring in the future as a result of the continuing presence of the tree, it is then necessary (see paragraph 59E) to consider whether it was reasonably foreseeable by the planning authority at the time consent was refused that (a) and (b) would be “established”. That is, presumably, an authority seeking to defeat a claim must be able show that that it could not have reasonably foreseen – at the time it made its decision on the application for consent – that the claimants would conclude that it was reasonable to have the underpinning carried out to avoid the risk of future subsidence.

Mitigation

46. The analysis by the Tribunal in *John Lyon* (at paragraph 59, quoted above) was incomplete in that it failed to deal with the need for a claimant to take reasonable steps to minimise its loss. However, at paragraph 73, the member noted:

“I am not persuaded that the claimant has failed to mitigate its loss. There was no evidence to suggest that further subsidence would have been avoided if other vegetation had been removed. I am not satisfied that seasonal wetting and drying was a material cause of the damage to No. 147. Moreover, Ms Milne accepted in cross examination that the further information which she said should have been provided would have made no difference to the compensating authority’s decision. It follows that the claimant’s failure to provide a fuller picture or make a further application did not cause its loss.

47. This suggests that, in order to defeat a claim, it is not sufficient for an authority simply to show that a claimant failed to make a second application, supported by more information. The authority must be able to show that:

- (a) there was evidence to suggest that there was an alternative cause for the movement of the property – either
 - (i) generalised seasonal wetting or drying of vegetation, which would continue whether or not the tree in question was removed;
 - (ii) some other specific tree or shrub, the removal of which would solve the problem; or
- (b) the production of further evidence to show that there was no such alternative cause would have led to a grant of consent.

Of course if the authority can show that there was indeed an alternative cause, that would amount to a failure by the claimant to prove causation (that there was a risk of future subsidence occurring as a result of the continuing presence of the tree in question – point (a) at paragraph 23 above) rather than a failure to mitigate.

The amount of compensation

48. Finally, in relation to the cost of the works, the claimant needs to establish (see paragraph 59C of *John Lyon*):

- (c) that the works in their nature and extent were reasonable, and
- (d) that the cost was reasonable.

Application to the present case

49. In this case, unusually, the Council has available to it a great deal of information and analysis, in particular:

- the reports supplied by the owners of the Old Rectory and their agents – either along with the section 211 notification or otherwise (see paragraph 3 above);
- the reports produced for the Parish Council and its summary of those reports (paragraphs 10 to 13);
- the reports obtained by the Council (paragraphs 15 to 19).

50. Thus, in contrast to the position that usually arises in these cases, the Council does have level monitoring results – generally agreed to be the best indicator of vegetation-related movement. And it has root identification data, to identify which of the various trees nearby is likely to be responsible for such movement. And it has analysis produced on behalf of the two rival interest groups – the owners and the local residents – and a further set of independent reports that it has itself commissioned. This means, incidentally, that I see no purpose being served by insisting on the production of further reports, as has been urged by some local people an earlier stage. That would merely postpone the inevitable.

51. Of these reports, the most helpful are perhaps those in the third category, produced for the Council. And I concur with their analysis, and agree with their conclusions. It will be recalled that these reports include the following passages, in relation to the cause of the damage:

“All of this establishes to the balance of probabilities and indeed, in my view, beyond reasonable doubt, that the cedar is causing the damage to the structure by way of clay-related shrinkage.”

“... the cracking and vertical movement has been caused by seasonal changes in the moisture content of the thin layer of clay beneath the foundations, caused by the extraction of water by the cedar tree, and perhaps also by the wellingtonia tree.

“The level monitoring indicates that significant movement has only occurred along the east side of the building. Seasonal structural movement will continue ... if it is not underpinned.”

It seems to me highly likely that these conclusions would be supported by the Tribunal in the event that an application for consent were to be submitted and refused, and a claim for compensation were to be submitted and rejected.

52. From this it follows that the answer to the first question posed by the Tribunal at paragraph 59A of the decision in *John Lyon* – what is the risk of future subsidence occurring as a result of the continuing presence of the tree in question? – is that there is a very substantial risk of subsidence damage occurring to the Old Rectory in the future as a result of the continuing presence of the cedar, and some risk as a result of the wellingtonia.

53. As to the possibility of underpinning, the reports conclude as follows:

“it appears perfectly possible to install a relatively small amount of underpin to support the affected section of external and internal walls. ... The costing of any scheme for repair would allow a comparison to be made between repairing the property and removing the tree as possible solutions.”

“ ... Underpinning the east wall would prevent it from undergoing seasonal movement.

The answer to the Tribunal’s second question – is the underpinning a reasonable response to that risk? – is clearly “yes”.

54. As to the costs, the advice received so far is that the cost of underpinning is likely to be in the region of £20,000, plus professional fees of around £2,000 and building regulations fees; although, as noted, the eventual cost may be larger. However, the amount of compensation that countryside be claimed would be equal to the actual cost of the underpinning works, provided that the nature and extent of those works was reasonable (*John Lyon*, paragraph 59B, 79).

55. It may be noted that in the *John Lyon* case the cost of underpinning was initially estimated at £40,000 (see paragraphs 74-75 of the decision); in the event the cost, and thus the compensation payable, was £68,500 (paragraphs 75, 82); and the claimant’s costs were £116,600 (paragraph 84 ⁵). If the Council had accepted liability at the outset, it would have had to pay £68,500, or possibly less; by choosing to contest liability, it ended up having to pay £185,100, plus its own costs – a total of more than £200,000.

Conclusion

The cedar

56. In relation to the Cedar, the Council has several options open to it:

A. It could decline to confirm the Order.

⁵ Note that the addendum on costs is contained in the version of the decision available on the Tribunal website, but not in the version available on Westlaw.

- B. It could confirm the Order, and in due course allow the trees to be felled, imposing a condition that suitable replacements be planted.
 - C. It could confirm the order, and refuse consent for the felling of the cedar, accepting as it does so that it has to pay compensation, and seeking to minimise the amount payable.
 - D. It could confirm the order, refuse consent for the felling of the cedar, refuse to pay compensation, and contest liability in the Upper Tribunal.
57. Of these options, A and B will in all probability lead to the loss of the cedar and possibly the wellingtonia. The replacement obtainable under Option B will not be perceived as being an adequate substitute for many years, if at all. Either of these options would in all probability upset local people, but would avoid the Council having to pay compensation – which, as has been pointed out, is a legitimate matter to take into account (see paragraph 29 to 36 above).
58. Option C would lead to the trees being retained, and thus local people being pleased, but the Council having to pay compensation in respect of the resulting underpinning. To minimise the claimants' costs, which would be borne by the Council – and the Council's own costs – it would be prudent to explain, at the same time that the Order is confirmed, that in all probability any application for consent to fell the trees would be refused but that liability to pay compensation would not be contested. As noted above, the amount actually payable could only be determined on conclusion of the works, but it might well be in excess of the provisional figure initially suggested – in the region of £22,000 plus building regulations fees. It would probably be worth setting aside a budget figure of somewhere between £25,000 and £50,000; and the Parish Council might be invited to express a view as to whether it would wish to contribute towards that sum.

59. Which of these options is to be pursued is clearly a matter for the Council, but it would be perfectly reasonable to pursue any of Options A to C.
60. Option D is almost certain to lead to the Lands Tribunal finding that compensation is payable. That would lead to the Council having to pay a total bill of perhaps between £100,000 and £200,000 – conceivably more. That option therefore has nothing to commend it.

The wellingtonia

61. Finally, it should be noted that the above analysis has largely focused on the cedar, as there seems to be little doubt that retention of the cedar would lead to continuing damage, and thus the need for underpinning. I am much less convinced as to the position in relation to the wellingtonia. If the cedar were to be felled (Options A or B), it would therefore be worth considering carefully whether it would be worth retaining the wellingtonia. If so, the Order could be confirmed only in respect of the wellingtonia (a variation of Option A), or conditional consent given to fell only the cedar (a variation of Option B); and in either case the owners could be invited to reconsider the position once the cedar had been removed.
62. In particular, it should be made clear to the owners at this stage that if the subsidence were to continue, and if for that or any other reason they wished to remove it, they should submit a new application. That approach would prevent any future liability for compensation arising without the Council having a chance to reconsider the position.
63. If on the other hand the house is to be underpinned, to enable the cedar to be retained (Option C), there is no particular point in felling the wellingtonia. Again, it should be made clear that If the owners wish to fell it for reasons unconnected with

the subsidence (as is hinted at in the reports), a further application for consent should be submitted in due course.

64. I should of course be happy to advise further if that would be of assistance.

CHARLES MYNORS

Francis Taylor Building, Temple

23 July 2012

In the matter of the Town and Country
Planning Act 1990

And in the matter of the South
Cambridgeshire District Council Tree
Preservation Order 01/12/SC

And in the matter of the Old Rectory,
Little Gransden, Bedfordshire

Advice

The Legal Office,
South Cambridgeshire District Council,
South Cambridgeshire Hall,
Cambourne Business Park,
Cambourne, Cambridge
CB23 6EA

tel. 01954 713022
(Gary Duthie)

fax. 01954 713150

DX. 729500 Cambridge 15

e-mail: gary.duthie@scambs.gov.uk

23 July 2012

Chambers ref: 56914
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Hannah · Reed

The Old Rectory TPO
Little Gransden

Report by Structural Engineer

Peter Woolley
BSc CDipAF CEng MICE MStructE
Hannah, Reed and Associates Limited
Consulting Civil and Structural Engineers
Telford House
Fulbourn
Cambridge CB21 5HB

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1 Brief (Dated 8 August 2012)

The following brief was provided by David Bevan, Conservation and Design Manager of South Cambridgeshire District Council, who required structural engineering advice in connection with a Tree Preservation Order (TPO).

The purpose of the structural engineer's report is to help inform the Council's decision on whether a Tree Preservation Order (TPO) should be confirmed for trees at the Old Rectory, a grade II listed building.

The report will advise on:

- The level of seriousness and future implications, including remedial work required, of movement and cracking at The Old Rectory involving the foundations, walls and any other elements.
- The cause or causes of the movement including but not limited to trees and modern changes and other works to the house.
- The solutions or solution to deal with the movement, the risks with their implementation and their nature and estimated costs. The costs should include and remediation works but not filling of cracks or redecoration which would be required whether or not the solutions would be implemented.

The report will also comment on the issues raised in Giles Biddle's report about the robustness of the methodology and data in original reports and any implications of this for the conclusions drawn.

The work will require the structural engineer to:

- Review existing reports and correspondence
- Review the planning history and building control history (if agreed by Mrs Seabright).
- Visit the property and carry out a visual inspection of the structures involved and their surroundings.
- Prepare a report on his findings.

The existing report and correspondence to be reviewed have been sent separately by Roz Richardson.

The planning history is attached with this brief. Planning applications can be searched on our website at <http://plan.scambs.gov.uk/swiftlg/apas/run/wchvarylogin.display>. More recent ones will include plans and documents. Plans and documents for earlier applications may be on microfiche at our office. Contact us if you have problems getting the information you need.

The building control history is not publicly available apart from start and finish dates which we can provide. We have contacted the owner to ask if she is willing for you to see this information.

2 Documents Reviewed

Gawn Associates report dated 18 December 2009, for owner
Mat Lab Ltd report dated 23 March 2010, for insurers
Crawford addendum report dated 4 May 2010, for insurers
OCA arboricultural report dated 28 May 2010 (by Margaret MacQueen), for insurers
Crawford letter dated 2 January 2012 with monitoring data
Writtle Park Ltd arboricultural report dated 10 October 2011, for owner
Note from Dr Charles Turner dated 5 March 2012 (independent)
P G Biddle report dated 15 March 2012, for Parish Council
Richard Jackson structural report dated April 2012, for Parish Council
John Cromar arboricultural report dated 15 May 2012, for SCDC
AFP structural report dated 29 June 2012, for SCDC
AFP email correspondence dated 5-9 July 2012, with SCDC
John Cromar email correspondence dated 5-9 July 2012 with SCDC
List of planning and listed building consents for The Old Rectory.

3 Methodology

- 3.1 I have reviewed the existing reports and correspondence made available to me and I visited the property on 18 August 2012 in order to make an inspection. I was met there by Mrs Seabright, who explained the building work that had been carried out in 2010 and pointed out the locations of the cracks and survey points as shown in the various reports.
- 3.2 Rather than reiterate the results of the site investigation, level monitoring and various specialist investigations already carried out, I have answered the brief directly, drawing the various threads of information together and referring to elements of specialist reports that have been prepared. In doing this, I discuss both supporting and dissenting views and draw my own conclusions to inform the Council.

4 Level of Seriousness

- 4.1 The damage to the fabric of the building is not structurally serious. The cracks observed are reported as being fine or hairline in width and there is no risk that the problems encountered will result in an unsafe structure.
- 4.2 The benchmark that is normally used for assessment of damage is BRE Digest 251, (ref 1). Specifically, in accordance with Table 1 of that document, which categorises

damage by crack width, the damage here is category 2 in a range spanning from 0 to 5. Category 0 is the least serious (for which no action is required) while category 5 is the most serious (which requires major repair involving partial or complete rebuilding).

- 4.3 The movement of the foundations recorded along the east wall (nearest the cedar tree) reached a maximum of 12mm in 2010-11. In purely structural terms, this is not serious, but is enough to give rise to damage. The amplitude of seasonal movement, up and down, is not likely to increase significantly from that experienced in 2010-11, although it is possible that there will be a gradual ratcheting down of the affected parts of the building over several years if the problem is not dealt with. This will result in overall settlement locally becoming greater than at present, though not dangerously so, and there will be a permanent distortion of the superstructure.
- 4.4 The BRE categorisation of damage is often used, and has been referred to in both the OCA report and the Richard Jackson report. It does not give a complete picture, however. Although the damage is not structurally serious, if it is allowed to continue, the wall and ceiling cracking will be a nuisance to the owners as it is recurrent and seasonally cyclic in nature; it is probably, to some degree, progressive. Either the cracking would have to be endured, or continual repairs and re-decoration would be needed. As suggested by AFP, if the problem is not dealt with, it could render the property difficult to insure and sell. These points are considered further in section 7.

5 The Causes of the Movement and Damage

- 5.1 There is widespread agreement amongst the various reports that the cause of the damage is settlement arising from seasonal cyclical shrinkage and swelling of the narrow band of clay beneath the foundations of the east elevation; the seasonal movement having been brought about by tree root action of the cedar tree referred to as T1.
- 5.2 The above reflects the summary view of Leslie Gawn, for the owner; Crawford and OCA, for the insurer; Writtle Park, for the owner; John Cromar and AFP, for SCDC.
- 5.3 Dr P G Biddle, for the Parish Council, gives qualified acceptance of the above in para 29 of his report, while Richard Jackson, for the Parish Council, dissent based on their desktop study of the documents.
- 5.4 The clay described in Mat Lab's site investigation report appears to be the feather edge of a superficial deposit referred to as Till on the Geological Survey map, an extract of which is shown below, in figure 1. This is as described in the letter dated 5 March 2012, from Dr Charles Turner and is referred to by Dr Biddle (para 12). Till was called Boulder Clay on earlier versions of the geological map. It is essentially a variable, sandy or silty clay deposit and laboratory tests carried out by Mat Lab have shown it to have intermediate shrinkage potential.

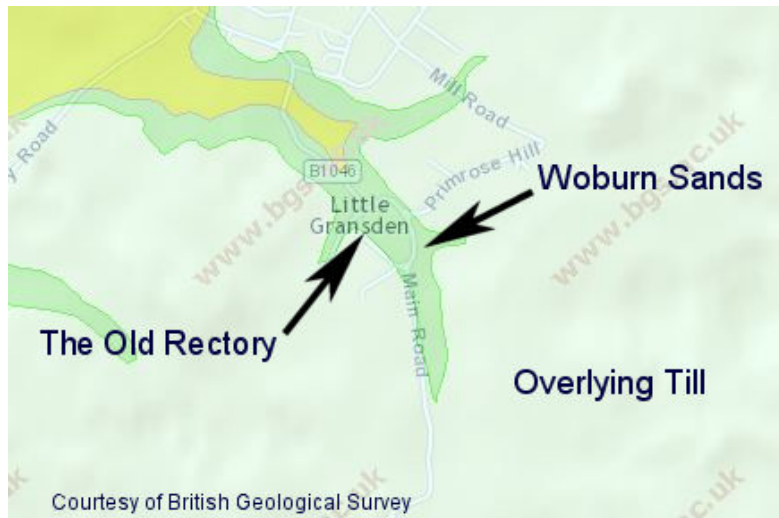


Figure 1. Extract from Geological Map

- 5.5 Dr Biddle suggested that the damage might have been caused by shrubs (para 27) although he had not been able to visit the site to check this. The walls in the vicinity of survey points 6, 7 and 8 are surrounded by hard paving and the nearest vegetation is the group of yew trees referred to as G1 in the Writtle Park report. These yews are 6m tall, occupy an area where the ground level is lower, and are 10m from the bay window area of the house (about 20m north of survey point 8). No shrubs or other vegetation were recorded in the vicinity in any of the reports and I saw none during my visit. It therefore seems to me that this possibility can be ruled out for the area of movement and damage in the vicinity of survey points 6-8.
- 5.6 I am less certain about the smaller-scale movements at survey points 9 and 10, the bay window area, which could possibly be related to tree root action from the nearby yew trees. The yews are much smaller, lower in the ground and less vigorous than the cedar and the movements recorded at points 9 and 10 do not appear to have caused any nuisance to the owner.
- 5.7 Dr Biddle makes the valid point that the cedar (T1) will have been having a similar influence on the building for many decades and it might be expected that damage would have developed long ago. I accept this point and it is discussed below.
- 5.8 According to the geological map, the cedar tree sits in Woburn Sands, which are fine, free draining sands. During my visit, I estimated the ground level at the cedar tree to be approximately 1m lower than the ground floor of the house (which is approximately 51m AOD). Further east behind the tree, the ground level drops away, leading to the lower garden near Gransden Brook. Here, I estimated the ground level to be approx. 44m AOD, ie 6m lower than at the tree and 60m away. At the time of my visit, Gransden Brook was largely dry. Given these relative levels, it seems reasonable to me that the tree roots might extend beneath the house as the water table in the Woburn Sand is likely to be at roughly 44m AOD, ie 6m below the tree.
- 5.9 As part of my investigations, I visited the offices of South Cambridgeshire District Council to inspect the planning applications referred to in the list of documents, together with any building regulations submissions.
- 5.10 I inspected two planning applications that are relevant to this investigation: the 2009 application for the extension and renewal of the cellar area at the southern end of the building; and a 1999 listed building application (ref S/0216/99/LB) that related to

various alterations including underpinning the single storey area at the northeast corner.

- 5.11 The 2009 planning application, and related building regulations submission, showed rebuilding of the store and utility area at the southern end of the building, including deepening the cellar and associated underpinning of the adjacent wall of the main building, so that the deepened cellar did not undermine it.
- 5.12 The 1999 application was lodged by David Pitts (architect) and refers to *“serious settlement along the north side of the building to the single storey element which will require underpinning.”* The drawing attached to the application indicates underpinning of indeterminate extent in that area, to engineer’s details. The architect’s drawing showed the underpinning, schematically, as extending under most of the single storey area and the northeast side of the cellar. Unfortunately, no engineer’s details were included. The owner’s recollection at the time of my visit was that only a small area of underpinning was undertaken locally to the northeast corner.
- 5.13 The 1999 listed building application does therefore indicate that problems with settlement have been present in the south eastern corner of the building for at least 13 years.
- 5.14 A related question has been posed which is relevant here: could the cedar roots found in the trial pit have come from the second cedar tree, further to the north of T1? In response, I refer to Writtle Park’s report, which states in para 4.3:
“There are no other trees in the area of a size, stature or proximity to the area where the roots were retrieved that this root may be associated with other than T1 Cedar.”
- 5.15 Dr Biddle has acknowledged that the crack monitoring shows a pattern consistent with the influence of vegetation (para 11) but has suggested that the damage may have been exacerbated by the differences in foundation depth (para 29). As an engineer, I agree this is possible and the matter is discussed below.
- 5.16 I agree with Dr Biddle (para 30) that there is no evidence to suggest the involvement of the wellingtonia tree. However, the only trial pit excavated was adjacent to survey point 8, which is 27m from the wellingtonia. That tree lies approximately 23m from point 6 and could be contributing to the foundation movements there. It is not known what roots might exist in the soil beneath point 6 although there is seasonal movement there and the cedar (T1) is the closest tree, at approximately 19m.
- 5.17 Richard Jackson make the following points to justify their view, which I deal with below in some detail, using the paragraph numbers in their report:
- 5.18 Para 2.7 Richard Jackson suggest that the differential foundation movement and consequential damage can result from foundations at different depths, such as between the recently deepened basement area, which is located at the southeast corner, and the adjacent shallow footings. They note that this is where the cracking has been reported.
- 5.19 While I agree that the phenomenon described by Richard Jackson is a well-known source of structural problems, I do not consider that it is the cause of the cracking at this property. There are several reasons for this: firstly, from my own inspection, the cracking that was recorded by Gawn and has been monitored by Crawford is in a zone between four and ten metres away from the utility area with the deepened foundations; it is too far away. Secondly, the damage was recorded before the basement was deepened (although a half-cellar was already present at the same location); thirdly, it would not explain the cyclic movement, particularly at some distance from the basement. Fourthly, the report by AFP following their inspection,

records no significant cracking where the cellar meets the shallow foundation. My own inspection confirmed this.

- 5.20 Para 2.8 and 3.2 Richard Jackson state the clay stratum is thin and they would have expected the damage to occur many decades previously as the clay would have been fully desiccated as the trees approached their mature height. This is the same point made by Dr Biddle and is considered in my paragraphs 5.7 to 5.13, above.
- 5.21 Para 2.9. Richard Jackson use NHBC recommendations as to tree distances and foundation depths to suggest that the cedar is too far away for its roots to have an effect below 900mm, which they state is the normal depth of seasonal variation. 900mm is the minimum depth recommended by NHBC for foundations in such clay soils. I consider this argument irrelevant as it ignores both the actual depth of the foundations and the presence of cedar roots in the clay beneath them. I deal with the normal depth of seasonal variation below.
- 5.22 Para 2.10 and 3.3 Richard Jackson again cite the NHBC recommendations to suggest that the horse chestnut tree is the culprit. This may be indicated theoretically but ignores the fact that cedar roots were identified beneath the foundations and not those of the horse chestnut.
- 5.23 Para 3.4 - 3.6 Richard Jackson state the foundations of the main house are too shallow to resist the effects of seasonal variations... in the clay, and that any property founded in such a way can expect damage up to BRE Digest 251 level 2. Therefore, removal of the two trees is unlikely to stop foundation movement under the house. Again, I think a quasi-theoretical argument is used to arrive at an inappropriate conclusion. The inference from the argument is that the cedar roots discovered in the clay beneath the foundations did not have any noticeable effect: the movements would have taken place without them due to normal seasonal variations in the moisture content of the clay.
- 5.24 I agree that the house foundations are too shallow, based on modern practice in clay soils. Therefore, the foundations are more at risk from normal, seasonal moisture changes due to evaporation. However, I do not agree with the inference drawn by Richard Jackson. John Cromar considers this in his report at the paragraph entitled, 'Footings', and notes the presence of the patio, an impermeable cap, over the ground adjacent to the east wall. He suggests that this would have effectively retarded or prevented simple evaporation and concludes that tree root action is the cause of the shrinkage.
- 5.25 Dr Biddle also considers this point, in ref 2, p74.

"...evaporation from a bare soil surface, even under a prolonged drought, is unlikely to reduce the moisture content below a depth of 0.3m. It requires vegetation and a root system to extract moisture from any greater depth."

"Any form of hard surface, such as tarmac or paving slabs, will reduce, or virtually eliminate, any evaporation and drying from the soil surface."

I therefore do not accept Richard Jackson's conclusion (para 3.6) that removing the trees is unlikely to stop foundation movement under the house.

- 5.26 If I interpret their paragraph 3.8 correctly, Richard Jackson seem to be unconvinced that the movement shown by the level monitoring is seasonal cyclic; it may be 'truly' progressive, ie going inexorably in one direction. Looking at the graphs attached to Crawford's letter dated 23 January 2012, there is, in my view and that of Biddle and others, a distinct cyclic movement of points 6, 7 and 8. It is not simply progressive. Unfortunately, there does not seem to have been a set of readings taken in December 2010, which might have made things clearer. Also, I have just received

Crawford's results from March and August 2012 that show that almost complete recovery has taken place. There can be no doubt that the foundation movements are seasonally cyclic.

- 5.27 Given the above, I have no doubt that the foundation movements and consequent damage have been caused by tree root action, as set out above in paragraph 5.1.

6 Dr Biddle's Comments on Original Reports

- 6.1 Dr Biddle has raised concerns about the methodology and data in the original reports and each of these points is considered below with a view to the implications for the conclusions drawn.

Differences between Plans

- 6.2 Dr Biddle states that interpretation of the available information is complicated by the major differences between the plans in the various documents. I agree that there are differences between the plans contained in the two Crawford documents, that in OCA's report and in Cromar's report. While they do make interpretation more difficult, I do not consider the differences to be major, nor do I consider they imperil the conclusions that have been drawn.
- 6.3 The original Crawford plan, and that used by OCA, appear to have been taken from the small scale block plan used in the planning applications, which is not accurate in every detail. The plan Crawford used in their level monitoring is more accurate in detail, but was drawn before the basement works were undertaken at the south end of the property: it shows the building as it had been before that work. Once the basement work was carried out, the shape of the building changed in that area and survey points 4 and 5 were lost. That plan is attached to Crawford's letter dated 23 January 2012 and I believe it to be accurate in other respects. I note that the level monitoring results include x and y coordinates of the various points, giving measured dimensions.
- 6.4 Dr Biddle makes the point that level monitoring invariably provides the most useful information on the cause of damage (para7). He does not raise this as a concern, but implies that it is a valuable and important part of the original methodology adopted. I fully agree.

Use of Different Datum

- 6.5 Dr Biddle has used survey point 3 as a datum point instead of that used by Crawford. Crawford adopted point 1 as the datum presumably because they considered that part of the building to be accessible and least likely to be affected. In comparison with that datum, their subsequent results show the level of point 3 steadily rising by slightly less than 2mm in the year to April 2011. This is unlikely to be a true movement, and Dr Biddle has recalibrated the levels with point 3 as the datum in order to remove the anomaly. That successfully deals with the problem and has the effect of depressing all other readings by a similar amount. It does not have a significant effect and does not alter the conclusions that have been drawn. Dr Biddle acknowledges this at para 8.

Information from Soil Investigations

- 6.6 Dr Biddle makes the point (para 15) that the oedometer strain value is not necessarily indicative of root-induced desiccation. He notes (para 16) that penetrometer values are not relevant for determination of desiccation in a soil of this type. Dr Biddle notes that the clay moisture contents were determined in March, at which time of year any seasonal drying by root activity is likely to have been corrected by seasonal rehydration. He concludes that the investigations are therefore of no value in determining whether root activity is involved.
- 6.7 I would not argue with Dr Biddle's statements concerning the oedometer strain, the relevance of the penetrometer readings or the value of the desiccation result. I do not accept that the investigations are of no value, however, as it provides information on the type of soil and its index properties, together with tests on five root samples (not one sample, as noted by Dr Biddle). I feel sure Dr Biddle would accept this. Again, in my view, Dr Biddle's criticisms concerning the results do not alter the conclusions that have been drawn, which are mainly reliant on the level monitoring and, to a lesser extent, on the crack width monitoring. I do not think there is any dispute about the shrinkage characteristics of the clay beneath the foundations.

7 Threat to Use and Safety

- 7.1 I have been asked to comment on whether the movement taking place represents any threat to the use and safety of the building, as opposed to minor cracking that requires filling and redecoration.
- 7.2 It is often found that level monitoring shows foundation movements of greater magnitude than are reflected in the crack damage above ground. This is due to a number of factors, including the geometry of the situation, the strength and elasticity of the structure and the ability of the structural materials to absorb and disperse strain movements in a ductile fashion. For example, it is well known that lime mortar is better able to absorb structural movement without cracking than is modern cement mortar.
- 7.3 In my opinion, the movement of the foundations, and consequent cracking, are not of sufficient magnitude or severity to imperil the safety of the building or its occupants; nor are they likely to become so in future.
- 7.4 The movements that have been measured have not threatened the use of the building. However, in my opinion, it is quite possible that the penetration of the roots beneath the house will become more widespread in future and will begin to affect walls and floors within the main body of the house. In my experience, once roots penetrate below foundations, they can extend a long way beneath the building in their search for moisture. During my visual inspection there were signs of slight movement some distance from the single storey garden room area which is the focus of this investigation.
- 7.5 In my view, the movements and cracking do represent a significant nuisance to the owner in the following respects:
- (i) worry arising from foundation instability;
 - (ii) continual need for repairs and redecoration to wall, ceiling and floor finishes;

- (iii) doors and windows are likely to bind in future (see para 4.3, above);
- (iv) possible difficulty insuring and/or selling the property, and;
- (v) consequent diminution of value

7.6 In the context of points (i) and (ii), above, it has been suggested that periodic repairs and redecoration are to be expected in any house, particularly one as old as this. I accept this. From my inspection, it is clear that the owners have put a lot of effort into upgrading the house and they keep it in a good state of decoration. In my opinion, however, there is a distinction to be drawn between normal, superficial cracking arising from thermal and moisture effects in superstructure, which many people are content to live with, and movements arising from foundation instability, which most people in my experience find worrisome and intolerable.

8 Rates and Trends of Cracking and Movement

- 8.1 The quantitative information on these matters is given in the level and crack width monitoring results attached to Crawford's letter dated 23 January 2012.
- 8.2 The owner reported the damage in late 2009, giving rise to the initial report by Gawn Associates. Monitoring commenced in March 2010. During the first twelve months, the results of the monitoring show foundation movements of 5-6mm amplitude although, as noted in para 5.20, there was no reading in December 2010. During 2011, the amplitude of seasonal movement increased to 11.7mm (using point 1 as the datum).
- 8.3 Between late September 2010 and early October 2011, representing the same part of the annual cycle, the level of point 6 had dropped by 4.5mm (using point 1 as the datum). This appears to be partly due to the ratcheting down referred to in para 4.3, coupled with an increasing amplitude of fluctuation. It may, however, be the result of the recent changing pattern of rainfall in different seasons.
- 8.4 From an inspection of the graphs attached to Crawford's letter, the amplitude of the seasonal variation in levels at points 6-10 seems generally to have increased during 2011/12.
- 8.5 The crack width monitoring also shows a small but increasing amplitude of movement: that in the kitchen increasing from 1mm during 2010 to 2mm during 2011.
- 8.6 Whether the amplitude of the seasonal cyclic movements continues to increase is dependent on two things: the moisture demand of the tree and future rainfall characteristics. Since the cedar (T1) is fully mature, it seems unlikely that its moisture demand will increase. The second determinant is the weather and, in that regard, we have been warned by climatologists to expect more extremes in future, arising from climate change effects. For that reason, there is a risk that extended periods of very low rainfall will become more common and the cedar will continue and perhaps extend its attempts to draw moisture from the soil beneath the house.

9 The Solution

- 9.1 From an engineering perspective, I believe it is better to remove the cause of a problem rather than to deal with its effects. In this case, the cause has two facets, both of which have to be present if problems are to arise, as follows:
- 9.2 Firstly, the foundations are embedded in a soil (the clay) which is potentially unstable if subject to changes in moisture content; secondly, seasonal moisture changes in the clay are being caused by tree root action from the cedar, and possibly the wellingtonia, along the eastern side of the property.
- 9.3 The problem would be overcome if either of the above contributory causes were removed. In other words, the problem could be solved either by underpinning the foundations of the building, or by felling the offending tree(s).
- 9.4 Alternatives to both of those solutions have been considered in the various reports: installation of a root barrier instead of underpinning; and tree management instead of felling. However, both of the alternative suggestions have been considered to be problematic and less reliable in this particular situation. Although I have used root barriers successfully in the past, I consider that, in this situation, a root barrier would be impractical and ineffective in the medium to long term.
- 9.5 So, if the problem is to be solved, either the tree(s) have to be felled or the foundations underpinned. Both of these are considered below.

Tree Felling

- 9.6 Risks of felling the cedar T1. It has been established that there is no risk of long-term heave (ref Dr Biddle's report, para 31, for example). In order to minimise any problems with short-term foundation recovery, ideally, felling should take place at a time when the soil has naturally recovered its moisture content after desiccation in the summer and autumn growing season. If this is not possible, the tree can be felled at any time but repairs and redecoration should be delayed until soil moisture has recovered in the spring.
- 9.7 Provided the cedar is felled competently, there should not be any residual risk, other than the possible future effect on the foundations of the wellingtonia (not established) or that tree's instability once it is no longer sheltered by the cedar. If both trees are felled, clearly, neither risk exists.
- 9.8 Felling the tree(s) would be quick and effective; I imagine it would be considerably less expensive than underpinning, though I have no knowledge of the likely cost.

Underpinning

- 9.9 Underpinning along the northeast facing external wall. As suggested by AFP, this is a practical option and would take the form of contiguous mass concrete sections cast below the existing foundations and taken down below the clay, to a depth of approximately 1.5m below ground level. It should extend along the entire side of the building except for the southern cellar and the south-facing end of the play room (I understand that was underpinned in or around 1999).
- 9.10 The proposed underpinning would amount to approximately 30m in length and would require the removal and reinstatement of the patio and stone paving; removal and reinstatement of the surface water gulleys and drains along that elevation, plus any other services that may exist there; plus temporary support to the columns adjacent to the entrance door that support the first floor overhead.

- 9.11 If designed and undertaken competently, this form of underpinning should not present any construction risks. Although it is time-consuming, messy and disruptive, it is much less disruptive than underpinning carried out within the building and should not require any reinstatement of interior floors or finishes.
- 9.12 In my opinion, the cost estimate provided by AFP is too low: Hannah-Reed's recent experience of similar external underpinning is that it costs approximately £1,000 per metre run, excluding design costs and VAT. That would imply a cost of approximately £40,000 incl VAT for the work described. I should stress that this is no more than a broad-brush estimate; more exact costs will clearly be subject to tendering contractors' views of the risks and work involved.
- 9.13 As far as the residual risks of this solution are concerned, I am less sanguine than AFP about the risk and likely impact of root penetration beneath the underpinning and into the body of the building. (Ref email correspondence dated 5-9 July 2012, between John Howlett, AFP, and David Bevan, SCDC).
- 9.14 Cedar roots were found in the trial pit for the full depth of the hole, ie down to 3.5m below ground. If we are proposing to underpin down to a depth of 1.5m, it seems clear to me that the roots will travel past the foundation into the building, seeking moisture. I would not characterise this as a very low risk but very likely. Neither do I think it possible to say that the impact is likely to be limited to minor cracks. If roots find a source of moisture beneath the building they will exploit it if they need to, with all the consequences discussed above. Whether the cedar will find it expedient to do this I cannot say, but I certainly consider it to be a risk.

Peter Woolley

10 References

- 1 BRE Digest 251, Assessment of Damage to Low-Rise Buildings with particular reference to progressive foundation movement. Revised 1995.
- 2 P G Biddle, Tree Root Damage to Buildings, Vol 1, Causes, Diagnosis and Remedy, 1998, Willowmead Publishing Limited.

11 Curriculum Vitae of Peter Woolley

Qualifications: BSc (Hons) CDipAF CEng MICE MIStructE

I graduated from The University of Southampton in 1973 with a BSc Honours Degree in Civil Engineering. I am a chartered civil and structural engineer, having been a corporate member of the Institution of Civil Engineers since 1979 and a corporate member of the Institution of Structural Engineers since 1982. The first four years of my career were spent with a major building contractor working on site in London followed by two years abroad with an internationally known firm of consulting engineers.

In 1979, I joined Hannah, Reed and Associates, a firm of consulting engineers in Cambridge. I became a partner of that firm in 1986; my role transferring to director in 1993 when the firm incorporated its business.

I am managing director of the company and, apart from my general management responsibilities, I have been principally responsible for the firm's work on a wide range of building and civil engineering projects. My work has encompassed reports and investigation of building failures, together with design and supervision of new buildings and refurbishment work to existing structures.

I have personally carried out numerous investigations of existing buildings suffering from settlement damage, often arising from tree root action, and have proposed remedial schemes. In the past twelve years or so I have provided expert witness reports in several legal disputes concerning subsidence, tree root damage, vibration damage, drainage and building construction.

I have worked alongside Dr Biddle on several of the disputes relating to tree root action.

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

5 September 2012

AUTHOR/S: Planning and New Communities Director

C/11/17/063/01 01/12/SC – THE OLD RECTORY, LITTLE GRANSDEN
Application to be determined to refuse or grant consent to fell one Wellingtonia and one Cedar

Recommendation: Approval

Date for Determination: 14 September 2012

This Application has been reported to the Planning Committee for determination as TPO 01/12/SC is to be determined at Planning Committee

To be presented to the Committee by David Bevan

Site and Proposal

1. The Cedar and Wellingtonia are located in the grounds of The Old Rectory a grade II listed building in the village of Little Gransden within the designated Conservation area.
2. This application to fell trees subject to a tree preservation order, validated on 27 July 2012, seeks to fell the Cedar and Wellingtonia due to differential foundation movement (subsidence) of the property.

History

3. Section 211 notification **C/11/40/063** validated 1st February 2012, 6 week consultation expired 12th March 2012.
4. Tree Preservation Order 01/12/SC served 9th March 2012, provisionally in force until 9th September 2012 unless confirmed.
5. Tree Preservation Order presented to planning Committee 1st August 2012 to be confirmed or not confirmed – decision deferred until 5th September 2012.

Consultation by South Cambridgeshire District Council as Local Planning Authority

6. **Little Gransden Parish Council** has not commented in response to the consultation on this application. Comments on the confirmation of the Tree Preservation Order (Item TBA) are set out in that report

Representations by Members of the Public

7. No comments have been received in response to the consultation on this application. Comments on the confirmation of the Tree Preservation Order (Item TBA) are set out in that report.

Material Considerations

8. The technical data submitted in support of this application is the same as submitted in January 2012 to support the Section 211 notification with the following exceptions that have been circulated: -
 - Updated Arboricultural assessment report from OCA
 - Statement of reasons
 - Report from Gawn Associates 2009
9. The technical reports and data submitted by and on behalf of the owners and their insurers, and those reports commissioned by the Parish Council and this Council, have been considered and discussed in the reports on confirming the Tree Preservation Order.
10. Those reports have also considered and discussed the material considerations in relation to confirming the Order and given three main options which have implications for this application.
11. If the decision is taken that the Tree Preservation Order should not be confirmed then this application will be redundant as formal consent for felling will not be required after the lapse of the provisional order.
12. If the Tree Preservation Order has been confirmed, the Committee may want to approve this application for the felling of the trees subject to a condition requiring replacement planting if they believe that the written assurance from the owners that they will do this is not sufficient.
13. If the Tree Preservation Order has been confirmed and Members want to refuse this application then the Committee should be aware of the potential for compensation that will result and the relative desirability of two possible routes which are set out in the report on the Tree Preservation Order.

Recommendation

14. The recommendation will follow and should relate to the decision whether to confirm the Tree Preservation Order.

The officer recommendation is that the application to fell the Cedar and Wellingtonia is granted consent because:

- The trees are causing movement to the Old Rectory which is resulting in a level of damage to the listed building and a significant nuisance to the owners.
- An approval with a condition requiring replacement planting is not necessary given the written commitment of the owner
- The costs of underpinning, which is the appropriate solution if the trees are not felled, is a potential liability for the Council and, even when reduced by the cost of felling, outweighs the high amenity and heritage value of the trees.

Contact Officer: **David Bevan** – Conservation & Design Manager
01954 713177

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

5 September 2012

AUTHOR/S: Planning and New Communities Director

S/1874/11 – BOURN**Replacement dwellinghouse and extension and alteration to existing structures to provide carport and storage buildings – The Apiary, 107 Caxton End for Mr Andrew Dearman, Dearman Developments Ltd****Recommendation: Approve****Date for Determination: 26 November 2011****Notes:****This Application has been reported to the Planning Committee due to the disparity between Officer recommendation and that of the Parish Council****To be presented to the Committee by Matthew Hare****Site and Proposal**

1. The application site comprises what is believed to be the former site of the Cock and Bottle Public House. The derelict and severely dilapidated remains of which are still visible on site. It is, however, understood that following closure of the pub the building was used as a dwellinghouse before falling into disrepair. Also on site is a timber outbuilding which is in a comparatively better state of repair.
2. The site is large (approx. 0.9ha) and littered with the remains of numerous vehicles and other objects. The current owners are making good progress with clearing this from the site.
3. The site is accessed from Caxton End, an unclassified road leading north-westward from the village of Bourn. Caxton End is characterised by a dispersed linear settlement pattern exhibiting a mix of dwelling age and design. The site falls outside of the Development Framework boundary for Bourn and is therefore within the defined countryside.
4. The site also falls partially within the Bourn Conservation Area. Land levels slope gently upwards from Caxton End to the rear of the site and a public footpath runs along the rear boundary.
5. The application seeks approval of a replacement dwelling. The proposals were originally described as refurbishment but were amended during consultation to comprise replacement when it became clear that there was no merit in refurbishment. The proposals have been amended to address design concerns raised by the Conservation Officer and Parish Council.

Planning History

6. **S/1265/04/F** – Two New Dwellings – Refused due to the fact that the development was inappropriate within the countryside and the scale and design of the buildings was such that it was considered to erode the rural character of the countryside and Conservation Area.

Planning Policy

7. **South Cambridgeshire Local Development Framework Development Control Policies DPD 2007:**

DP/1 Sustainable Development

DP/2 Design of New Development

DP/3 Development Criteria

DP/4 Infrastructure in New Developments

DP/7 Development Frameworks

HG/7 Replacement Dwellings

HG/8 Conversion of Buildings in the Countryside for Residential Use

SF/10 Outdoor Playspace, Informal Open Space, and New Developments

SF/11 Open Space Standards

NE/1 Energy Efficiency

NE/2 Renewable energy

CH/5 Conservation Areas

TR/1 Planning for more Sustainable Travel

TR/2 Car and Cycle Parking Standards

Consultations

8. **Bourn Parish Council** – Recommends Refusal in light of the fact that the previous residential use is considered to be abandoned and therefore that the proposals are contrary to policies DP/7 and HG/7 of the LDF.

Following amendment and discussions with the Council's Senior Lawyer (see below) the Parish Council omits its concerns regarding abandonment but recommends refusal on design grounds commenting:

"The Parish Council is pleased to see the dwelling has been moved more centrally on site however it recommends the application is refused as the roof height has been raised. The roof height should be lower"

9. **Senior Lawyer** – Advises the following in respect of the matter of abandonment:

"The period of non-use, even if from the 1970s rather than the 2002/03 claimed by the agent, is not excessive provided there is some good evidence of an intention to resume the user. There are a number of authorities that accept breaks in active use of as long as 30 years without use rights being lost. Similarly, the extent of dilapidation does not seem necessarily fatal where there are clearly residual features of the original structure physically remaining and no evidence I am aware of that indicates demolition or other deliberate measures to render the property uninhabitable have occurred.

So, in assessing intention, given the death of Mr Sparkes, we have to look at what we know. He apparently lived on the site in a caravan (at least from time

to time), he certainly seems to have been present there generally more or less continuously, even if actually living from a car at the roadside at times as the third-party claims. It seems to me that a reasonable person looking at those facts might conclude that those actions only occurred because Mr Sparkes regarded the site as his home (and, therefore, residence), notwithstanding the built structure was not being lived in. I see no reason to conclude from those facts alone that his intention was to abandon.

Given these considerations, if I have to call it either way, I prefer the view that the residential use has not been abandoned”

10. **Conservation Officer** - Advises that the remains of the previous cock and bottle building on site are not worthy of preservation having regard to the severe state of dilapidation and engineers reports submitted. Advises that the outbuilding structure is worthy of retention. Advises that the remains will require Conservation Area Consent for demolition.

Recommends refusal of the scheme, as amended, for the following design reasons:

"The proposed scheme has some general historic and vernacular characteristics but it mainly lacks many of the characteristics [of the area] such as simple, linear forms. Many of the elements (highlighted in one side elevation) have wide spans and relatively shallow pitches. The way render, brick and weatherboarding is split does not reflect local examples of houses, nor does the exposed chimneys on the south-east elevation".

11. **Tree Officer** – No objections. Recommends a soft landscape condition.
12. **Contaminated Land Officer** – Recommends a condition for the investigation, mitigation and remediation of contaminated land.
13. **Environmental Health Officer** – Recommends standard conditions for noise during construction and pile driven foundations.
14. **Ecology Officer** – No objections but recommends that the development be conditioned to ensure that the works are carried out in accordance with the Habitat Survey Report that accompanies the submission.
15. **Local Highways Authority** – Request that the field access gate be set at least 10m back from the highway boundary. Otherwise raise no objections and suggest a number of standard conditions regarding:

- Retention of visibility splays
- Surface water drainage
- Use of a bound material for driveway

Representations by members of public

16. Letters of representation received no.105 Caxton End, raising the following concerns (summarised):
- Previous residential use of the site has been abandoned

- Inappropriate design in terms of scale relative to no.105 and appearance in terms of complex design
- The application fundamentally seeks permission for a new dwelling in the countryside which is inappropriate

Representations received from 71 and 81 Caxton End, offering support for the proposed redevelopment of the site, commenting that the proposed design appears attractive and that re-use of the site would be positive for the area.

Material Planning Considerations

17. The key issues to consider in this instance are the acceptability of the principle of the development proposed in this location, impact upon the character and appearance of the countryside and Conservation Area, impact upon residential amenity and other matters.

Principle of Development

18. The proposals originally sought restoration of the remains on site but have been amended to seek replacement of the existing remains of the Cock and Bottle to provide a new dwellinghouse after it was established that there was little fabric of merit remaining on site to warrant refurbishment.
19. It is documented by the applicant and local representation that there has been a previous residential use of the former Cock and Bottle PH. It is evident that the residential use of the site has ceased and the building exists in a state of severe disrepair. Anecdotal evidence in the representations received suggests that the former Cock and Bottle has not been occupied since the mid 1970's. Given the severely dilapidated nature of the site in order for a proposal for a replacement dwelling to be viewed positively it would have to be demonstrated that the previous residential use of the site has not been abandoned. The test for abandonment as established by past case law pertains to four key matters:
 - Physical condition
 - Length of time unoccupied
 - The existence of any intervening land use
 - Intent to abandon
20. Having regard to the above the Council's Senior Lawyer has advised that, on balance, the strongest case rests with the residential use of the site having not been abandoned.
21. Moving forward with this in mind the key policy applicable is policy HG/7 which permits the one for one replacement of existing dwellings in the countryside subject to the stipulation that any development must not materially increase the impact of the site upon the surroundings.
22. The site at present is, as stated numerous times, in a severely dilapidated condition. The remains of the Cock & Bottle are so degraded that it is impossible to acquire an understanding of the visual impact that the building might once have had. The application makes some suggestions as to what the prior extent of the building was but this is not substantiated and thus little weight is attached to these speculations. On the flip-side the Local Planning

Authority has no evidence to demonstrate beyond the balance of probability that the historic survey details are incorrect.

23. The proposed replacement dwelling is, in all likelihood, materially larger than the previous structure. However the prevailing character of Caxton End is one of large detached dwellings set within spacious plots. In this regard the proposal will not appear incongruous or out of scale (the proposed dwelling would stand only 0.14m higher than the adjacent dwelling no.105). Thus whilst there will be an increase in the visual presence of the site in the surroundings this is largely due to the dilapidated nature of the existing buildings and the lack of evidence to qualify the previous impact of the existing building it is not considered that this increased visual presence would be harmful in principle, rather it would result in the decontamination and tidying up of the site which is to be generally viewed as positive.
24. There would be no concern for the establishment of a precedent for further large detached dwellings in the vicinity as the current proposals are determined on the assessment that the existing residential use of the site has not been abandoned, clearly there are no sites with similar applicable circumstances in the vicinity.

Character and Appearance

25. The site falls within the Bourn Conservation Area as does much of Caxton End. At the south eastern end of the lane development is relatively dense, but historic dwellings have a generally high status appearance. Development patterns quickly become less dense as one moves north westwards away from the village centre and in the vicinity of the application site dwellings on Caxton End are typically large, detached and set within spacious plots. There is a harmonious mix of dwelling age and design evident.
26. The proposed dwelling represents a large detached dwelling of historic appearance. The house design has been amended to simplify the external appearance of the dwelling and in this regard the scheme is considered to have an attractive and well-balanced street fronting elevation. The Conservation Officer considers that the scheme is only partially reflective of the character of the area and that it does not respond to historic dwelling forms or details in the vicinity. Regardless however, the street fronting appearance of the dwelling is considered to respond well to local distinctiveness overall and is reminiscent of wider vernacular trends of high status dwellings in the district. Gable spans on the dwelling are largely commensurate to traditional proportions other than that of the northwest elevation, the wide span on this elevation having resulted from the Conservation Officer's previous concern for a valley roof construction.
27. Rear elevations are less attractive due to a perceived complexity, but have substantially less impact upon the character and appearance of the area and thus are not considered to constitute a design concern.
28. It is considered reasonable and necessary to condition external materials for approval in the event of planning permission being granted to ensure that the detailed external appearance is appropriate for the area.
29. The existing barn structure is proposed to be retained, repaired and enlarged. Enlargement is not considered to materially harm the character of the area

and the street fronting elevation of the barn remains suitably utilitarian and thus contextual to the area. The Conservation Officer has advised that the barn is worthy and capable of restoration, the application lacks detail in this regard and thus is it considered reasonable to require a scheme of restoration by way of a conditional requirement.

30. New landscaping is indicated by the proposals but no specific details are provided. Having regard to the relatively verdant qualities of Caxton End it is considered reasonable to condition a specific soft landscaping scheme for approval and implementation to ensure that this character is complemented.
31. Having regard to the above it is not considered that the proposals will materially harm the character or appearance of the Conservation Area in this instance.

Residential Amenity

32. There is not considered to be any adverse impact upon residential amenity in this instance due to the degree of separation from adjacent residential dwellings that is proposed.

Further considerations

33. The proposed dwelling comprises a four bedroom dwelling. Officers are unable to establish how many bedrooms the previous dwelling had due to a general lack of historic information in this regard. It is clear however that the previous dwelling on the site has been unoccupied for a number of years and as such the community has not had to accommodate the burden of the occupants for the same period. Due to this it is considered reasonable to seek a financial contribution in lieu of on-site provision of public open space and community facilities in full having regard to the size of the proposed dwelling. The applicant has acquiesced to this and provided a draft heads of terms to meet these requirements. A standard Grampian condition is there considered to be reasonable and necessary in this instance.
34. The Local Highways Authority Recommend that the field access gate be sited back from the edge of highway boundary by at least 10m. Amended plan ref. NWA-11-014101D appears to omit the field access from proposals, but the site location plan retains this feature. It is considered reasonable in this instance to condition all boundary treatments on site for approval, this would allow the authority control over the siting and design of a gated field access.

Conclusion

35. Having regard to applicable national and local planning policies, and having taken all relevant material considerations into account, it is considered that planning permission be granted in this instance.

Recommendation

36. Approve subject to conditions

Conditions

- 1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.**
(Reason - To ensure that consideration of any future application for development in the area will not be prejudiced by permissions for development, which have not been acted upon.)
- 2. The development hereby permitted shall be carried out in accordance with the following approved plans & Documents: NWA-11-041-BLK_P rev A, NWA-11-041-1 Rev D, NWA-11-041-2 Rev B, NWA-11-041-3, NWA-11-041-4 Rev A & Habitat Survey dated 5th March 2011.**
(Reason – To facilitate any future application to the Local Planning Authority under Section 73 of the Town and Country Planning Act 1990.)
- 3. No development shall take place until details of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.**
(Reason - To ensure the appearance of the development is satisfactory in accordance with Policy DP/2 of the adopted Local Development Framework 2007.)
- 4. Notwithstanding plan ref NWA-11-014101D, no development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include indications of all existing trees and hedgerows on the land and details of any to be retained, together with measures for their protection in the course of development. The details shall also include specification of all proposed trees, hedges and shrub planting, which shall include details of species, density and size of stock.**
(Reason - To ensure the development is satisfactorily assimilated into the area and enhances biodiversity in accordance with Policies DP/2 and NE/6 of the adopted Local Development Framework 2007.)
- 5. All hard and soft landscape 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.**
(Reason - To ensure the development is satisfactorily assimilated into the area and enhances biodiversity in accordance with Policies DP/2 and NE/6 of the adopted Local Development Framework 2007.)
- 6. No development approved by this permission shall be commenced until:**

- a) **The application site has been subject to a detailed scheme for the investigation and recording of contamination and remediation objectives have been determined through risk assessment and agreed in writing by the Local Planning Authority.**
- b) **Detailed proposals for the removal, containment or otherwise rendering harmless any contamination (the Remediation method statement) have been submitted to and approved in writing by the Local Planning Authority.**
- c) **The works specified in the remediation method statement have been completed, and a validation report submitted to and approved in writing by the Local Planning Authority, in accordance with the approved scheme.**
- d) **If, during remediation works, any contamination is identified that has not been considered in the remediation method statement, then remediation proposals for this contamination should be agreed in writing by the Local Planning Authority.**
(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 DP/1 of the adopted Local Development Framework 2007)

- 7. **No development shall begin until details of a scheme for the provision of recreational, community services and refuse infrastructure to meet the needs of the development in accordance with adopted Local Development Framework Policies SF/10 & SF/11 have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a timetable for the provision to be made and shall be carried out in accordance with the approved details.**

(Reason - To ensure that the development contributes towards public open space, community facilities and refuse in accordance with the above-mentioned Policies SF/10 & SF/11 and Policy DP/4 of the adopted Local Development Framework 2007.)

- 8. **No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment and gates to be erected. The boundary treatment and gates shall be completed before that/the dwelling is occupied in accordance with the approved details and shall thereafter be retained.**

(Reason - To ensure that the appearance of the site does not detract from the character of the area and in the interests of highway safety in accordance with Policies DP/2 & DP/3 of the adopted Local Development Framework 2007.)

- 9. **Prior to the commencement of development on site a detailed scheme for the restoration of the existing cattle shed on site**

shall be submitted to and agreed in writing by the Local Planning Authority. Works shall be carried out in accordance with the agreed details.

(Reason - To ensure the appropriate restoration of the cattle shed which is considered to be of historic interest.)

10. **The driveway and hardstanding, hereby approved, shall be constructed such that no surface water run-off is discharged on to the public highway. This arrangement shall be retained for so long as the hardstanding remains.**

(Reason - To ensure that the development does not negatively impact on site highway safety in accordance with Policies DP/2 and DP/3 of the adopted Local Development Framework 2007.)

11. **During the period of demolition and construction, no power operated machinery shall be operated on the site before 0800 hours and after 1800 hours on weekdays and 1300 hours on Saturdays, nor at any time on Sundays and Bank Holidays, unless otherwise previously agreed in writing with the Local Planning Authority.**

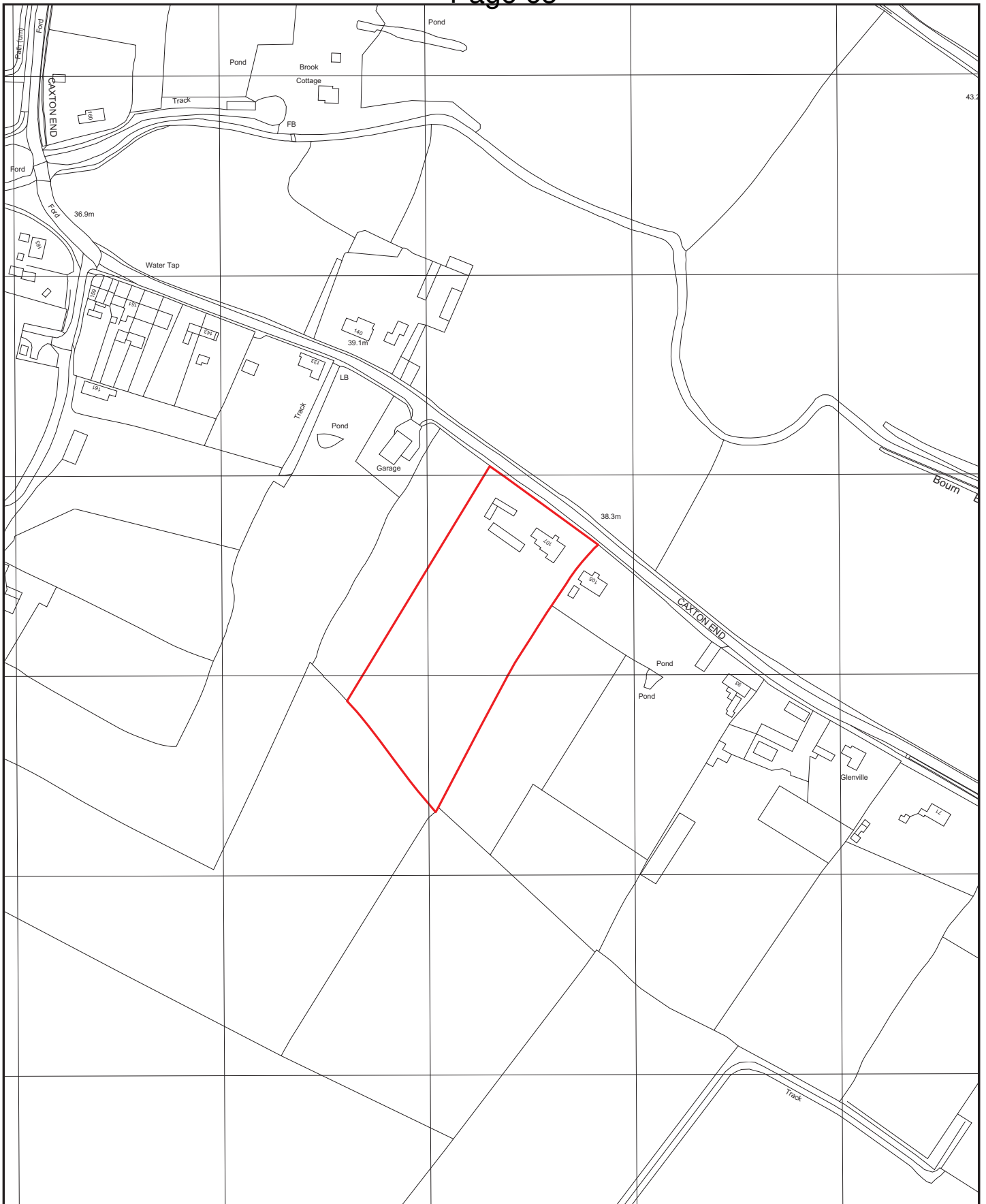
(Reason - To minimise noise disturbance for adjoining residents in accordance with Policy NE/15 of the adopted Local Development Framework 2007.)

Background Papers: the following background papers were used in the preparation of this report:

- South Cambridgeshire Local Development Framework 2007

Contact Officer: Matt Hare – Senior Planning Officer
Telephone: (01954) 713180

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SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

5 September 2012

AUTHOR/S: Planning and New Communities Director

S/1196/12/FL - HARLTON**Demolition of Existing Bungalow and Replacement with 2 storey Dwelling at 8 Haslingfield Road for Mr Justin Webb****Recommendation: Approval****Date for Determination: 3 August 2012**

This application has been reported to the planning Committee for determination as the Parish Council's recommendation differs from the officer recommendation.

To be presented to the Committee by Saffron Garner

Site and Proposal

1. The site is located inside the development framework. It is surrounded by residential development on all axes other than to the southeast, which comprises open countryside. The site comprises 0.19ha. The existing property is a modest single storey unit that sits amongst identical properties in the immediate vicinity. Five of the same units were built in the 1960's and since this time only one has been replaced with a two-storey dwelling. This sits at the end of the row of bungalows at No. 12 Haslingfield Road. The neighbouring sites, and particularly this plot, benefit from extensive rear gardens that back onto open countryside. The entire site is in the village framework; however, the developable area is primarily in line with its immediate neighbours. The boundaries are defined by a mixture of hedging and close boarded fencing. A small layby is located outside the front of the application site and a large pine tree that took up the best part of the front garden has been removed.
2. The application seeks planning permission for the demolition of the existing bungalow and replacement with a two storey dwelling with an integrated garage and off road parking provision.

Planning History

3. The site has minimal planning history as the existing bungalow predominately remains as per the originally granted consent in 1960. However, an application for a replacement dwelling was refused under planning reference S/1376/11 due to the adverse impact on neighbour amenity and impact on the street scene. Following this decision made under delegated powers various discussions took place with the aim on reducing the impact on neighbour amenity and designing a scheme that was more in keeping with the closer properties as well as trying to achieve a property that the clients could use as a family home.

Planning Policy

4. **South Cambridgeshire Local Development Framework Core Strategy 2007**
ST/7 Infill Villages
5. **South Cambridgeshire Local Development Framework Development Control Policies 2007**
DP/1 Sustainable Development
DP/2 Design of New Development
DP/3 Development Criteria
DP/4 Infrastructure and New Developments
DP/7 Development Frameworks
SF/10 Outdoor playspace, Informal Open Space and New Developments
SF/11 Open Space Standards
NE/2 Renewable Energy
NE/6 Biodiversity
TR/2 Car and Cycle Parking Standards
6. Circular 11/95 (The use of Conditions in Planning Permissions) advises that planning conditions should be necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects.

Consultations

7. **Harlton Parish Council** recommends refusal with the following comments:
 - The development will materially alter the character of the village
 - It will remove from the housing stock a type of dwelling that will become more in demand by an aging population
 - It will compromise the existing building line.
8. The **Local Highway Authority** has no objection in principle subject to the inclusion of conditions securing pedestrian visibility splays, surface water drainage, the use of bound material for the driveway, permanent closure of the existing access and the prevention of works in the highway.
9. The **Environmental Health Officer** no comments received. However the standard conditions and informative regarding hours of construction operation and demolition should be applied if minded for approval.

Representations by members of the public

10. Three letters of objection have been received with regard to this application and the following concerns are raised.
 - Overdevelopment and out of proportion
 - Inappropriate development
 - Visually displeasing
 - Out of character
 - Overbearing
 - Inaccurate drawings (tree at front has been felled)
 - Loss of a small dwelling for an aging population

- Forward projections create an unacceptably large dwelling
- Overshadowing
- Shortage of smaller houses in Harlton
- Mess from building contractors

Material Planning Considerations

11. The main issues in this case are:
- Principle of Development
 - Impact on the street scene and character of the area
 - Impact on neighbour amenity
 - Highway Safety
 - Other Matters

Principle of Development

12. The site is located inside the development framework. It is also surrounded by residential development on all sides other than to the southeast which is open to the wider countryside. The density for this site equates to 5 dph. This is significantly lower than the adopted 2007 Local Development Framework policy requirements. However, given the surrounding context and the layout of the existing properties along Haslingfield Road it is considered that more than one unit on this site would create a cramped form of development not in character with the existing context, street scene or neighbouring properties.
13. Harlton is identified as an infill village under Policy ST/7 of the adopted South Cambridgeshire LDF Core Strategy DPD 2007. As such the provisions of Policy DP/7 applies, which permits the development of unallocated land within development frameworks, subject to the proposal not leading to a loss of character or local employment, being respectful to local features and providing the necessary infrastructure. In this instance, the proposal does relate to unallocated land, which is already in residential use, where it is felt that a replacement dwelling could be satisfactorily accommodated in this context.

Impact on the character of the area/Street Scene

14. The new dwelling comprises a two storey replacement dwelling that sits 8m to the ridge and 5m to the eaves. The front and rear elevations have projecting gables that allow for rooms at first floor. The footprint of the replacement dwelling sits over that of the existing; no further back into the site. The most forward projecting element is that of the garage and bedroom 3, which will have limited head room. This projects forward approximately 7.5m from the existing building line and a reduced 6 metres forward of the property known as No. 6. The ridge height of the garage is approximately 5.2 metres and the roof designed to slope away from the occupier of No. 6 Haslingfield Road so as to reduce its presence on the occupier. The eaves height measures at approximately 2.5m, slightly higher than a standard close-boarded boundary fence. At present a mature hedge is located on the shared boundary at a similar height to the proposed eaves line here. This projection has been reduced in length and the design altered to take into account the neighbouring property as well as the street scene. It was preferred that the

garage be set further back, however, the applicant required a double garage on site and this siting was considered to be less damaging to the street scene than that of a detached garage and of an appropriate design so as not to adversely impact on neighbour amenity. It was considered that this projection was a fair compromise from the originally refused scheme.

15. The design of the house is the result of negotiations between the applicant and officers. The first application saw a development that adversely impacted neighbour amenity due to loss of light and being overbearing. Additionally it was considered to be out of keeping with the street scene with large projections that filled the plot tightly from boundary to boundary resulting in an adverse impact on both neighbour amenity and street scene.
16. With specific regard to street scene it was established that a two storey property here was not unacceptable. There are two storey units in close proximity to the application site, opposite and within the village. The main concern was that as this was a bungalow between two very similar properties a change in height would be problematic and out of character. There are many villages in the District that have a road with a line of small bungalows, normally 1950'-1970's, commonly similar in design if not identical. Often attempts are made to retain them due to their regularity in the street scene, however they are often not suitable for larger families but come with vast amounts of land locked rear gardens, similar to the application site. Whilst it would be admirable if private owners saw the benefit of keeping some single storey properties in villages for the ageing population, the market prices of units are not reflective of this requirement. Additionally many elderly residents struggle with the garden size. This is not a planning issue that can be conditioned nor can it be requested that the owners never apply to build upwards. Applications must be assessed individually on their merits. The result of this scheme is to allow for a two-storey dwelling that meets the needs of the applicant and acceptably addresses the earlier two reasons for refusal.
17. One pre-application scheme that was dismissed replicated the units on the other side of the road. No projecting elements were proposed but a detached double garage was to be located in the front garden. Officers were keen to ensure that the house in question addressed all of the issues previously raised rather than just replicating another unit in close proximity to overcome the concerns raised about street scene. The proposal was not reflective of either of the neighbouring bungalows and looked totally at odds with this side of Haslingfield Road, although it looked almost identical to several of the units opposite.
18. As a result the design was revised and projections were reintroduced, the hipped roof design was omitted, the dormer window was omitted and the footprint and proportions revised to create a property that would sit more comfortably between the two modest bungalows. The garage was turned to face onto the street and the eaves were lowered to the front. All these minor changes have resulted in a significant change to the scheme visually and officers are content that the revised design will sit in the existing street scene without resulting in undue harm. It will bring change to the existing view but it is not considered to be harmful or contrary to the requirements of the relevant policies.

Impact on Neighbour Amenity

19. The earlier refused scheme was considered unacceptable as it adversely impacted the amenity of the occupiers at No. 10. It resulted in a loss of light to the property as well as being unduly overbearing due to its proximity and scale. This has since been altered and the potential impact on the occupiers at No. 10 is considered to now be completely addressed. The revised dwelling and rear projection has been moved away from the shared boundary, reduced in size, is subservient to the main ridge line and hipped to remove the loss of light that was previously considered unacceptable. The forward projection has not only been significantly reduced in depth but has been removed from the shared boundary with No. 10, improving the outlook from the kitchen onto the road.
20. The revised design has been reduced in scale overall and the projections now mirrored. The impact of this change on the occupier of No. 6 is considered to be less significant due to the orientation of the units to each other, meaning loss of light is not a concern here. With regard to being overbearing the projections have been reduced in depth, height and the roof slopes designed to slope away from the occupier thus reducing potential impact.
21. Based on the information above it is considered that the revised design appropriately addresses the original concerns regarding neighbour amenity.

Impact on Highway Safety

22. The comments received from the Local Highway Authority are noted. Conditions set out in the LHA comments can be applied as conditions if approval given.

Other Matters

Financial Contributions

23. Policy DP/4 of the South Cambridgeshire Local Development Framework Development Control Policies DPD 2007 states that planning permission will only be granted for proposals that have made suitable arrangements for the improvement or provision of infrastructure necessary to make the scheme acceptable in planning terms.
24. The proposed dwelling will result in a net increase of 1.57 occupants as the new dwelling provides 3 additional bedrooms over the property it intends to replace. The open space calculator suggests that the increase would equate to a financial contribution of £2014.00. This is index-linked and would be secured through the signing of a Section 106 legal agreement. Confirmation that the applicant would be willing to make such a contribution has not been received.
25. In accordance with Policy DP/4, a new charge has been introduced in relation to the Community Facilities Assessment 2009 that seeks a financial contribution of £332.84 towards indoor community facilities. This is index-linked and would be secured through the signing of a Section 106 legal agreement. Confirmation that the applicant would be willing to make such a contribution has not been received.

Loss of a small dwelling

26. There is no policy support for the retention of smaller properties within village frameworks. Retention of small dwellings is primarily protected outside of these areas. This property is inside the framework for Harlton and therefore its replacement, in principle is supported.

Conclusion

27. The application has been changed on several occasions with regard to design, neighbour impact and street scene. The result is a scheme that aims to meet both the applicants needs and the concerns raised by the Local Planning Authority.

Recommendation:

28. It is recommended that the Planning Committee approve the application subject to the following conditions.
1. Time limitation - 3 years
 2. Plans: 14, 8A, 24A, 25A, 26A and 27 franked 6th June 2012
 3. Materials
 4. Hours of Operation/Construction/Demolition
 4. Landscaping
 5. Landscaping Implementation
 6. Removal of PD rights
 7. No further windows at first floor/roof slope
 8. Garage shall not be used as living accommodation
 9. First floor windows in the SW elevation to be fixed and fitted with obscure glazing
 10. Contributions and relative informative
 11. Highway Conditions included

Background Papers: the following background papers were used in the preparation of this report

- Local Development Framework Core Strategy and Development Control Policies DPDs
- National Planning Policy Framework
- Planning file reference S/1196/12/FL, S/1376/11/FL and Pre-application discussions and meetings

Contact Officer: Saffron Garner – Senior Planning Officer
01954 713256



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SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

5 September 2012

AUTHOR/S: Planning and New Communities Director

S/1255/12/FL - HASLINGFIELD
Dwelling (amended design) - Land adjacent to 18 & 18a Fountain Lane
for Mr Tom Jack

Recommendation: Approval

Date for Determination: 24 August 2012

This Application has been reported to the Planning Committee for determination because the recommendation of the Parish Council differs to that of the case officer.

To be presented to the Committee by Paul Derry

Site and Proposal

1. The application site is located within the designated Haslingfield village framework. 18 and 18a Fountain Lane form ground and first floor flats, similar to the arrangement at the neighbouring property of 16 Fountain Lane. To the east are the rear gardens of the bungalow of 22 Fountain Lane and the two-storey property of 11 New Road. The flats have garden space to the side and rear of the building. 15 New Road on the opposite side of the road is grade II listed.
2. The full application, validated on 29 June 2012, seeks the erection of a dwelling, with an amended design to the extant consent (see below). The proposal would be attached to the east elevation of the existing flats, and would continue the roof line along. It also includes a forward projecting porch element, and a flat roof single storey element. The amended design now includes living accommodation in the roof space to create a four-bed unit, and a lean-to utility room to the side. The application is accompanied by a Design and Access Statement and a draft Heads of Terms.

Site History

3. Application **S/0268/12/FL** granted planning permission for a two-storey attached dwelling on the site. This application was determined by Members at Planning Committee dated 9 May 2012, following a site visit on 8 May 2012.
 1. Application **S/0267/12/FL** granted planning permission for a single storey extension to the ground floor flat of 18/18a Fountain Lane.
 2. Application **S/0060/07/F** granted consent for a dwelling at 12 Fountain Lane.

Planning Policy

4. **South Cambridgeshire Local Development Framework (LDF) Core Strategy, adopted January 2007: ST/6** Group Villages
5. **Local Development Framework Development Control Policies (LDF DCP) 2007: DP/1** Sustainable Development, **DP/2** Design of New Development, **DP/3** Development Criteria, **DP/4** Infrastructure and New Development, **HG/1** Housing Density, **SF/10** Outdoor Playspace, Informal Open Space, and New Developments, **SF/11** Open Space Standards, **NE/1** Energy Efficiency, **NE/6** Biodiversity, **NE/15** Noise Pollution & **TR/2** Car and Cycle Parking Standards.
6. **Open Space in New Developments SPD** – adopted January 2009, & **District Design Guide SPD** – adopted March 2010.
7. **National Planning Policy Framework:** Advises that planning obligations should only be sought where they are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. It adds planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other aspects.

Consultation by South Cambridgeshire District Council as Local Planning Authority

8. **Haslingfield Parish Council** recommends refusal of the application as they still consider the scale of the extension is too large, compounded now by the loft conversion. There is no possibility for turning on site so vehicles will have to manoeuvre on Fountain Lane, which is busy and narrow.
9. The **Local Highways Authority** recommends conditions regarding pedestrian visibility splays, drainage off the public highway, and a traffic management plan. An informative regarding works to the public highway is also suggested.

Representations by Members of the Public

10. None were received.

Planning Comments

11. The key considerations in the determination of this application are impact upon the street scene, impact upon the amenity of the occupiers of the adjacent properties, highway safety and parking provision, and infrastructure contributions. The principle of development is agreed through the extant permission S/0268/12/FL, as was the replacement of the frontage tree.

Impact upon the Street Scene

12. The proposal is different to that already approved through application S/0268/12/FL in that it includes accommodation in the roof space and a small side extension. The physical changes to the exterior are therefore the utility room that measures 2.1m by 3.8m with a lean-to roof above, and a rooflight to

both the front and rear elevations. The applicant has also requested the exterior of the dwelling be rendered rather than using a matching brick.

13. The changes to the physical appearance of the dwelling are not considered to cause any harm to the Fountain Lane street scene. The utility room extension will appear subservient and does not add significant bulk to the dwelling. There are no obvious rooflights in the immediate vicinity. However, a single rooflight in the front elevation would not be obtrusive. 12a Fountain Lane to the west that forms the end dwelling on the next terrace has a rendered exterior and therefore rendering the proposed dwelling would add some symmetry to the street scene.

Impact upon the Amenity of the Occupiers of the Adjacent Property

14. The utility room element extends the dwelling a further 2.1m closer to the shared boundary with 22 Fountain Lane. Members should be aware the occupiers of this property objected to the original plan although no correspondence has been received this time. The utility room element is single storey and located behind the garage of 22 Fountain Lane. As a result, no further harm would result to the occupiers of this property.
15. The rear facing rooflight serves the bedroom in the roof space. The section shows a cill height of 0.9m, and therefore there is the potential for some overlooking from this window. Application S/0268/12/FL included first floor rear windows serving a bedroom and landing area, with the bathroom window to be obscure glazed. The proposed rooflight is set above the bedroom window that was considered acceptable and set further into the site given its location in the roof. No serious overlooking should therefore result, although a condition restricting further windows in the rear elevation above first floor level would be required. The landing window now serves a bathroom, which can again be obscure glazing given the potential overlooking from this window.
16. The rooflight to the front elevation is set significantly back into the site so as not to cause any overlooking.

Highway Safety and Parking Provision

17. The comments from the Local Highways Authority are noted. The required pedestrian visibility splays are shown on the site plan and can be achieved, although a condition can ensure their retention. A condition can again ensure the spaces are retained and used for parking only. The extant consent does not include conditions regarding drainage or a traffic management plan. It is considered unreasonable to add these to the consent at this point, although the former can be added as an informative. The Parish council's concerns regarding turning on site are not sufficient to warrant refusal and are not supported by the Local Highways Authority.

Infrastructure Contributions

18. A Section 106 Agreement was completed for the extant consent S/0268/12/FL, and the applicant has provided draft Heads of Terms for a new agreement given the additional bedroom that is created in the roof space. Instructions have been sent to the Council's Legal Team with regard to the new agreement, and therefore a condition and relevant informative can be added to the consent.

Recommendation

19. Approve, subject to the following conditions
1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
(Reason - To ensure that consideration of any future application for development in the area will not be prejudiced by permissions for development, which have not been acted upon.)
 2. The development hereby permitted shall be carried out in accordance with the following approved plans: FLI/CB/11/02 rev B date stamped 29 June 2012.
(Reason - To facilitate any future application to the Local Planning Authority under Section 73 of the Town and Country Planning Act 1990.)
 3. The materials to be used in the construction of the external surfaces of the dwelling hereby permitted shall either be a cream rendered exterior with roof tiles to match 18 Fountain Lane or shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. Where materials are approved by the Local Planning Authority, the development shall be carried out in accordance with the approved details.
(Reason - To ensure the appearance of the development is satisfactory in accordance with Policy DP/2 of the adopted Local Development Framework 2007.)
 4. The development shall commence in line with the previously agreed landscape details submitted pursuant to planning permission S/0268/12/F, as stated within the letter dated 15 August 2012, unless agreed in writing with the Local Planning Authority. The development shall be carried out in accordance with the approved details.
(Reason - To ensure the development is satisfactorily assimilated into the area and enhances biodiversity in accordance with Policies DP/2 and NE/6 of the adopted Local Development Framework 2007.)
 5. All hard and soft landscape 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.
(Reason - To ensure the development is satisfactorily assimilated into the area and enhances biodiversity in accordance with Policies DP/2 and NE/6 of the adopted Local Development Framework 2007.)
 6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no windows, doors or openings of any kind, other than those expressly authorised by this permission, shall be constructed in the side (east) or rear (south)

elevations of the dwelling at and above first floor level and including the roof space unless expressly authorised by planning permission granted by the Local Planning Authority in that behalf.

(Reason - To safeguard the privacy of adjoining occupiers in accordance with Policy DP/3 of the adopted Local Development Framework 2007.)

7. Apart from any top hung vent, the proposed first floor windows serving the bathroom in the rear (south) elevation and the landing window in the side (east) elevation of the dwelling, hereby permitted, shall be fitted and permanently glazed with obscure glass.

(Reason - To prevent overlooking of the adjoining properties in accordance with Policy DP/3 of the adopted Local Development Framework 2007.)

8. During the period of construction, no power operated machinery shall be operated on the site before 0800 hours and after 1800 hours on weekdays and 1300 hours on Saturdays, nor at any time on Sundays and Bank Holidays, unless otherwise previously agreed in writing with the Local Planning Authority.

(Reason - To minimise noise disturbance for adjoining residents in accordance with Policy NE/15 of the adopted Local Development Framework 2007.)

9. Visibility splays shall be provided on both sides of parking spaces as shown on approved plan FL/CB/11/02 Rev B date stamped 29 June 2012 and shall be maintained free from any obstruction over a height of 600mm within an area of 2m x 2m measured from and along respectively the highway boundary.

(Reason - In the interest of highway safety in accordance with Policy DP/3 of the adopted Local Development Framework 2007.)

10. The dwelling hereby permitted shall not be occupied until the four parking spaces to the front of the site and the neighbouring property at 18 Fountain Lane are laid out as per approved plan FL/CB/11/02 Rev B date stamped 29 June 2012. The four spaces shall thereafter be retained for vehicle parking only.

(Reason - To ensure adequate off-street parking in accordance with Policy TR/2 of the adopted Local Development Framework).

11. No development shall begin until details of a scheme for the provision of open space and community facility infrastructure, and provision of waste receptacles and the Section 106 monitoring fee to meet the needs of the development in accordance with adopted Local Development Framework Policy SF/10 have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a timetable for the provision to be made and shall be carried out in accordance with the approved details.

(Reason - To ensure that the development contributes towards open space, community facility infrastructure, waste receptacles and Section 106 monitoring fee in accordance with the above-mentioned Policy SF/10 and Policy DP/4 of the adopted Local Development Framework 2007.)

Informatives

The development results in a number of infrastructure requirements to meet the needs of the development in accordance with Policies DP/4 and SF/10 of the adopted South Cambridgeshire Local Development Framework 2007. Should financial contributions be proposed, this would total contributions of £4,258.90 towards the off-site provision and maintenance of open space, £703.84 towards the provision of community infrastructure, and £69.50 towards the provision of household waste receptacles. These figures are as calculated on the date of the decision and are index linked so may be subject to change when any payment is made. These contributions would be secured through a scheme (Section 106 Agreement). There would also be additional charges of £50 towards a S106 monitoring fee. The applicant has confirmed in writing acceptance to these requirements.

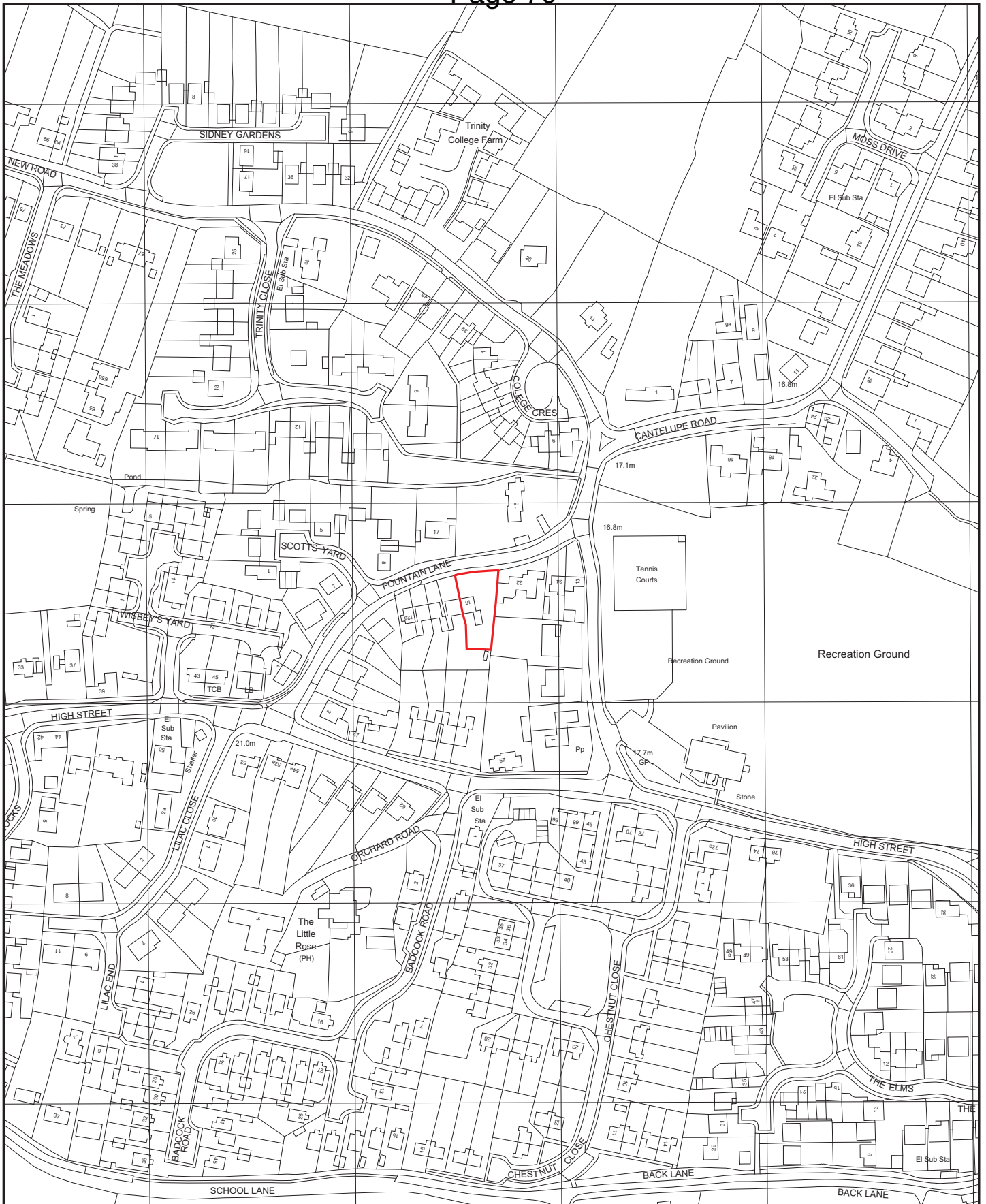
This development involves work to the public highway that will require the approval of Cambridgeshire County Council as Highway Authority. It is an OFFENCE to carry out any works within the public highway, which includes a public right of way, without the permission of the Highway Authority. It is the applicants responsibility to ensure that, in addition to planning permission, any necessary consents or approvals under the Highways Act 1980 and the New Roads and Street Works Act 1991 are also obtained from the County Council.

The applicant should ensure the parking spaces are developed to ensure no private water from the site drains across or onto the adopted public highway.

Background Papers: the following background papers were used in the preparation of this report:

- **South Cambridgeshire Local Development Framework (LDF) Core Strategy, adopted January 2007**
- **Local Development Framework Development Control Policies 2007**
- **Open Space in New Developments SPD – adopted January 2009, & District Design Guide SPD – adopted March 2010.**
- **National Planning Policy Framework**
- **Planning Ref Files: S/1255/12/FL, S/0268/12/FL, S/0267/12/FL, and S/0060/07/F.**

Contact Officer: Paul Derry - Senior Planning Officer
01954 713159



**South
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SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

5 September 2012

AUTHOR/S: Executive Director / Corporate Manager - Planning and Sustainable Communities

S/1492/12/FL – GREAT SHELFORD**Extensions, Alterations and Conversion of Outbuilding to Office at 1 Caius Farm Cottages, Babraham Road for Mr & Mrs D. Levien****Recommendation: Approval****Date for Determination: 28 September 2012****Notes:**

This application has been reported to the Planning Committee for determination as it is a minor application and the recommendation of Great Shelford Parish Council conflicts with the officer recommendation.

To be presented to the Committee by Karen Pell-Coggins

Site and Proposal

1. The site is located outside the Great Shelford village framework and within the Green Belt and countryside. It measures 0.11 of a hectare in area and currently comprises a two-storey, semi-detached, render and slate dwelling and garden on the western side and a four bay, brick /timber and slate/corrugated tin outbuilding and two timber garages and a parking area on the eastern side. The main section of the outbuilding is used for garden storage and the side sections are empty. There is a central gravel driveway that measures three metres in width with access off Babraham Road that is a busy straight road with a speed limit of 40 miles per hour. A number of trees and substantial landscaping are on the site. The site lies within Flood Zone 1 (low risk). Open agricultural land is situated to the south and east. A small group of dwellings are situated to the west.
2. The application, received as valid on 3 August 2012, seeks extensions, alterations and conversion of the outbuilding to an office following demolition of the existing garages. The central section of the outbuilding would be increased in height by 0.2 metres and the side sections of the outbuilding would be increased in height by 0.8 metres. A new extension that provides an additional 20 square metres of floor space would be attached to the south elevation of the outbuilding. The alterations include the insertion of windows and doors to the building, sections of timber cladding, and new slate roofs. The parking area would be extended to provide four parking spaces to the rear of the office and two parking spaces to the rear of the dwelling. The office would be used independently to the dwelling. It would have four employees and be open from 0800 hours to 1800 hours. A number of trees would be removed.

Planning History

3. **S/2277/02/F** - Conversion of Barn into Dwelling – Approved
4. **S/0556/91/F** - Access - Approved

Planning Policy

5. **South Cambridgeshire LDF Core Strategy DPD, 2007:**
ST/1 Green Belt
6. **South Cambridgeshire LDF Development Control Policies DPD, 2007:**
DP/1 Sustainable Development
DP/2 Design of New Development
DP/3 Development Criteria
DP/7 Development Frameworks
GB/1 Development in the Green Belt
GB/2 Mitigating the Impact of Development in the Green Belt
ET/1 Limitations on the Occupancy of New Premises in South Cambridgeshire
ET/7 Conversion of Rural Buildings for Employment
ET/8 Replacement Buildings in the Countryside
NE/1 Energy Efficiency
NE/6 Biodiversity
NE/11 Flood Risk
TR/1 Planning for More Sustainable Travel
TR/2 Car and Cycle Parking Standards
7. **South Cambridgeshire LDF Supplementary Planning Documents (SPD):**
Trees & Development Sites SPD - Adopted January 2009
Biodiversity SPD - Adopted July 2009
Landscape in New Developments SPD - Adopted March 2010
District Design Guide SPD - Adopted March 2010

Consultation by South Cambridgeshire District Council as Local Planning Authority

8. **Great Shelford Parish Council** – Comments that the proposal appears to comply with sections 89 and 90 of the NPPF recommendations for development in the Green Belt but it recommends refusal for the following reasons: -
 - i) It would set a precedent for additional development in the Green Belt;
 - ii) The use of the outbuildings for commercial purposes and the associated traffic movements to the rear of the buildings would be intrusive to the occupants of 1 Caius Farm Cottages;
 - iii) The larger area for car parking would be intrusive and inappropriate in the Green Belt; and,
 - iv) There are several vacant office buildings within the village envelope that could be used by the applicant's.
9. **Local Highways Authority** – Requests that the access is a minimum width of 5 metres for a minimum distance of 10 metres measured from the highway carriageway and conditions in relation to the provision of pedestrian visibility splays measuring 2.0 metres x 2.0 metres either side of the access that are kept clear from obstruction over a height of 600mm, that the driveway is constructed so that falls and levels are such that no private water would drain across or onto the public highway, and that the access is constructed from bound materials so that loose debris does not spread on to the public highway. Also requests an informative with regards to works to the public highway.

10. **Environmental Health Officer** – Has concerns that problems could arise from noise and suggests conditions in relation to the hours of use of power operated machinery during construction and details of any power driven plant to be installed within the office. Also requests informatives with regards to the burning of waste on site and disposal of asbestos.
11. **Contaminated Land Officer** – Comments that a condition in relation to the investigation of contaminated land is not required.
12. **Environment Agency** – Has no objections in principle but comments that foul drainage should be discharged to the public foul sewer unless it can be satisfactorily demonstrated that a connection is not reasonably available. Any non-mains drainage system requires the consent of the Agency. Suggests informatives with regards to foul water drainage connections to existing or new septic tanks.
13. **Trees and Landscapes Officer** – Comments that the trees are not afforded any statutory protection. Suggests an informative in relation to access for construction vehicles and the impact upon low canopies given that the frontage of the site is well treed
14. **Landscape Design Officer** – No response to date.
15. **Ecology Officer** – No response to date.

Representations by Members of the Public

16. The owner of the property has commented that he has not been correctly served notice of the application.

Material Planning Considerations

17. The key issues to consider in the determination of this application are whether the proposal would represent inappropriate development in the Green Belt in policy terms, whether there is any other harm, and whether any very special circumstances could be demonstrated that would outweigh any harm identified through inappropriateness or other harm.

Inappropriate Development

18. Paragraph 87 of the National Planning Policy Framework 2012 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
19. Paragraph 89 states that the extension or alteration of a building is not inappropriate provided that it does not result in disproportionate additions over and above the size of the original building and the replacement of a building is not inappropriate provided the new building is in the same use and not materially larger than the one it replaces.
20. Paragraph 90 states that engineering operations and the re-use of buildings of permanent and substantial construction are not inappropriate provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt.
21. Policy ET/7 of the LDF supports the conversion of existing rural building for employment purposes providing: - (i) the buildings are structurally sound; (ii) the buildings are not makeshift in nature and are of permanent, substantial construction;

(iii) the buildings are capable of re-use without materially changing their existing character or impact upon the surrounding countryside; and, (iv) the form, bulk and general design of the buildings are in keeping with their surroundings. Any increase in floor area will be strictly controlled, and must be for the benefit of the design, or in order to better integrate the development with its surroundings. There will be a general presumption against future extensions of such buildings. Incidental uses such as car parking and storage should be accommodated within the group of buildings, or on well related land where landscaping can reduce the visual impact of the new site. Employment generated must be in scale with the rural location. Developments resulting in significant numbers of employees or visitors must only be located near to larger settlements or accessible by public transport, cycling, or walking.

22. The existing outbuilding is in a good state of repair and considered to be of permanent construction and therefore capable of conversion. The development would not result in encroachment outside the existing residential curtilage and lead to a loss of openness to the Green Belt.
23. The existing outbuilding has a floor space of 70 square metres. The proposed extension to the south would increase the floor space of the building by 20 square metres. This enlargement in footprint would result in an increase of 30% in the floor space of the building. This is considered proportionate to the scale of the original building and would not be materially larger than the existing garages on the site to be replaced although not in the same use.
24. The proposed roof extensions would increase the height of the central section of the building by 0.8 metres and the side sections of the building by 0.2 metres. These enlargements are necessary to raise the eaves height and make the internal floor space more usable. They are not considered to result in disproportionate additions above the size of the original building and would retain its subservient scale to the dwelling on the site.
25. The increase in the width of the driveway by two metres and enlargement of the parking area is not considered to result in encroachment in the Green Belt as it would be well related to the building and within the existing residential curtilage. It would not lead to a loss of rural character and openness given its limited scale, lack of visibility from public viewpoints, and landscaping along the boundary that could be improved if necessary.
26. The extensions would replicate the traditional agricultural form and design of the building. The proposed external alterations to provide new cladding to the open side sections of the outbuilding would retain its original character and appearance. The windows and doors would be simple in design and located within existing openings or be the minimum required for the proposed use. The replacement slate roofs to the side sections of the building are considered to improve the appearance of the building.
27. Given the above reasons, the proposal is not considered to represent inappropriate development that would, by definition, be harmful in policy terms.

Other Harm

28. The proposal would not result in any further encroachment to the Green Belt from the previous use or lead to a visually intrusive development that would adversely affect the openness or rural character and appearance of the Green Belt.

29. The conversion of the building to an office use for a business that supplies automatic identification products is considered to provide an essential service for Cambridge as a local centre in accordance with Policy ET/1 of the LDF.
30. The employment of four staff is considered an acceptable scale for the sustainability of the location. The site is located a two minute walk from the Babraham Road Park and Ride site where there is a frequent bus service to Cambridge and within cycling distance of Cambridge and the village of Great Shelford. The proposal is not therefore considered to result in sole reliance on private modes of transport such as the car.
31. The proposal is not considered to be detrimental to highway safety subject to the receipt of amended plans that widen the access to 5 metres in order to comply with Local Highways Authority standards and conditions to be attached to any consent to ensure pedestrian visibility splays are provided and the driveway is constructed with adequate materials and drainage.
32. The office use would require 1 vehicle parking space per 25 square metres of gross floor area. The proposed floor space is 91 square metres. Therefore, four parking spaces are required. Four parking spaces and turning space would be provided within the site. The dwelling would require a maximum of 2 vehicle parking spaces. Two parking spaces and turning would be provided. The proposal would therefore comply with the Council's parking standards and not result in on-street parking. It should also be noted that there is a layby directly in front of the site.
33. The office use would require 1 secure cycle parking space per 30 square metres of gross floor area. Therefore, three cycle parking spaces are required. No cycle parking is provided on site and a condition would be attached to any consent to secure this provision and encourage a sustainable mode of transport.
34. The proposal would not result in the loss of any significant trees or hedges that contribute to the visual amenity of the area. A landscaping condition would be attached to any consent to agree additional planting in order to enhance the character and appearance of the area.
35. The conversion of the outbuilding is not considered to lead to the loss of an important habitat for protected species. A biodiversity survey was submitted with the application that states there was no evidence of bats or barn owls within the building.
36. The office would be situated a distance of 7 metres from the boundary of the garden to No. 1 Caius Farm Cottages and 11 metres from the first floor window in the side elevation of that dwelling. The proposal is not considered to adversely affect the amenities of that neighbour through any unduly overbearing mass, through a loss of light, or through overlooking that would lead to a loss of privacy. The extensions would be limited in scale and orientated to the south east an adequate distance from the boundary. The windows would be at ground floor level only and the garden would be screened by significant landscaping. This relationship is therefore considered acceptable.
37. The access to the office would run along the boundary of the garden to No. 1 Caius Farm Cottages and 4 metres from the first floor window in the side elevation of that dwelling. The proposal is not considered to adversely affect the amenities of that neighbour through noise and disturbance given the limited traffic generation and nature of traffic that would result from four employees from an office use within normal working hours.

38. Conditions would be attached to any consent to agree details of any plant or equipment to be used within the office and hours of use of power operated machinery during construction.
39. Given the above reasons, the proposal is not therefore considered to result in any other harm to the Green Belt.

Very Special Circumstances

40. Given that the proposal is not considered to represent inappropriate development in the Green Belt in policy terms and no other harm has been identified, the need for the demonstration of very special circumstances is not applicable in this case.

Other Matters

41. The approval of this particular application would not set a precedent for future development in the Green Belt as each application is determined upon its own merits.
42. Informatives would be attached to any consent to advise the applicants of foul drainage issues if there is not a connection available to the public foul sewer.
43. A condition would be attached to any consent in relation to the provision of an appropriate refuse store.
44. The fact that there are existing office premises available in the village does not justify refusal of the application if it is considered acceptable in planning terms.
45. The Council considers that notice has been served on the owners of the property correctly as part of the planning application process.

Conclusion

46. Having regard to applicable national and local planning policies, and having taken all relevant material considerations into account, it is considered that planning permission should be granted in this instance.

Recommendation

47. Approval subject to receipt of amended plans that widen the access and change the roof design of the side extension. The following conditions and informatives are suggested: -

Conditions

- i) The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
(Reason - To ensure that consideration of any future application for development in the area will not be prejudiced by permissions for development, which have not been acted upon.)
- ii) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing numbers as per amended plans.
(Reason - To facilitate any future application to the Local Planning Authority under Section 73 of the Town and Country Planning Act 1990.)

- iii) No development shall take place until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
(Reason - To ensure the appearance of the development is satisfactory in accordance with Policy DP/2 of the adopted Local Development Framework 2007.)
- iv) No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the dwelling is occupied in accordance with the approved details and shall thereafter be retained.
(Reason - To ensure that the appearance of the site does not detract from the character of the area in accordance with Policy DP/2 of the adopted Local Development Framework 2007.)
- v) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include indications of all existing trees and hedgerows on the land and details of any to be retained, together with measures for their protection in the course of development. The details shall also include specification of all proposed trees, hedges and shrub planting, which shall include details of species, density and size of stock.
(Reason - To ensure the development is satisfactorily assimilated into the area and enhances biodiversity in accordance with Policies DP/2 and NE/6 of the adopted Local Development Framework 2007.)
- vi) All hard and soft landscape 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.
(Reason - To ensure the development is satisfactorily assimilated into the area and enhances biodiversity in accordance with Policies DP/2 and NE/6 of the adopted Local Development Framework 2007.)
- vii) The access shall have a minimum width of 5 metres for a distance of 10 metres from the near edge of the highway carriageway.
(Reason - In the interest of highway safety in accordance with Policy DP/3 of the adopted Local Development Framework 2007.)
- viii) No development shall take place until details of the method of surface water drainage for the driveway has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
(Reason - In the interest of highway safety in accordance with Policy DP/3 of the adopted Local Development Framework 2007.)

- ix) Visibility splays shall be provided on both sides of the access and shall be maintained free from any obstruction over a height of 600mm within an area of 2m x 2m measured from and along respectively the highway boundary (Reason - In the interest of highway safety in accordance with Policy DP/3 of the adopted Local Development Framework 2007.)
- x) The use, hereby permitted, shall not commence until four vehicle parking spaces for the office use and turning space has been laid out within the site in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. The spaces shall thereafter be retained for vehicle parking and turning.
(Reason - In the interests of highway safety in accordance with Policy DP/3 of the adopted Local Development Framework 2007.)
- xi) The use, hereby permitted, shall not commence until three covered and secure cycle parking spaces for the office use have been provided within the site in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority; the spaces shall thereafter be retained for cycle parking.
(Reason - To ensure the provision of covered and secure cycle parking in accordance with Policy TR/2 of the adopted Local Development Framework 2007.)
- xii) The use, hereby permitted, shall not commence until a scheme for the siting and design of the screened storage of refuse has been submitted to and approved in writing by the Local Planning Authority; the refuse store shall thereafter be retained.
(Reason - To provide for the screened storage of refuse in accordance with Policy DP/3 of the adopted Local Development Framework 2007.)
- xiii) Prior to the commencement of any development, a scheme for the provision and implementation of foul water drainage shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be constructed and completed in accordance with the approved plans prior to the occupation of any part of the development or in accordance with the implementation programme agreed in writing with the Local Planning Authority.
(Reason - To reduce the risk of pollution to the water environment and to ensure a satisfactory method of foul water drainage in accordance with Policy NE/10 of the adopted Local Development Framework 2007.)
- xiv) Details of the location and type of any power driven plant or equipment including equipment for heating, ventilation and for the control or extraction of any odour, dust or fumes from the building(s) but excluding office equipment and vehicles and the location of the outlet from the building(s) of such plant or equipment shall be submitted to and approved in writing by the Local Planning Authority before such plant or equipment is installed; the said plant or equipment shall be installed in accordance with the approved details and with any agreed noise restrictions.
(Reason - To protect the occupiers of adjoining buildings (dwellings) from the effect of odour, dust or fumes in accordance with Policy NE/16 of the adopted Local Development Framework 2007.)
- xv) No deliveries shall be taken at or despatched from the site before 0800 hours and after 1800 hours on weekdays and before 0800 hours and after 1300 hours on Saturdays, nor at any time on Sundays and Bank Holidays
(Reason - To limit the impact of vehicle movements on residential amenities

in accordance with Policy DP/3 of the adopted Local Development Framework 2007.)

- xvi) During the period of demolition and construction, no power operated machinery shall be operated on the site before 0800 hours and after 1800 hours on weekdays and before 0800 hours and after 1300 hours on Saturdays, nor at any time on Sundays and Bank Holidays, unless otherwise previously agreed in writing with the Local Planning Authority.
(Reason - To minimise noise disturbance for adjoining residents in accordance with Policy NE/15 of the adopted Local Development Framework 2007.)
- xvii) Notwithstanding the provisions of Article 3 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order with or without modification), the premises shall be used for offices or research and development and for no other purpose (including any other purposes in Class B1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order with or without modification).
(Reason - To protect the amenities of adjoining residents in accordance with Policy DP/3 of the adopted Local Development Framework 2007.)
- xviii) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no development within Classes A and B of Part 41 of Schedule 2 of the Order shall take place unless expressly authorised by planning permission granted by the Local Planning Authority in that behalf.
(Reason - To ensure that the appearance of the site does not detract from the character and openness of the Green Belt in accordance with Policy GB/1 of the adopted Local Development Framework 2007.)
- xix) No external lighting shall be provided or installed within the site other than in accordance with a scheme which has been submitted to and approved in writing by the Local Planning Authority. This information shall include a layout plan with beam orientation, full isolux contour maps and a schedule of equipment in the design (luminaire type, mounting height, aiming angles and luminaire profiles, angle of glare) and shall assess artificial light impact in accordance with the Institute of Lighting Engineers (2005) 'Guidance Notes for the Reduction of obtrusive Light'. The approved lighting scheme shall be installed, maintained and operated in accordance with the approved details.
(Reason - To minimise the effects of light pollution on the surrounding area in accordance with Policy NE/14 of the adopted Local Development Framework 2007.)
- xx) No materials or equipment shall be stored on the site outside the buildings save that waste materials may be kept in bins for removal periodically.
(Reason - In the interests of visual/residential/rural amenity in accordance with Policy DP/3 of the adopted Local Development Framework 2007.)

Informatives

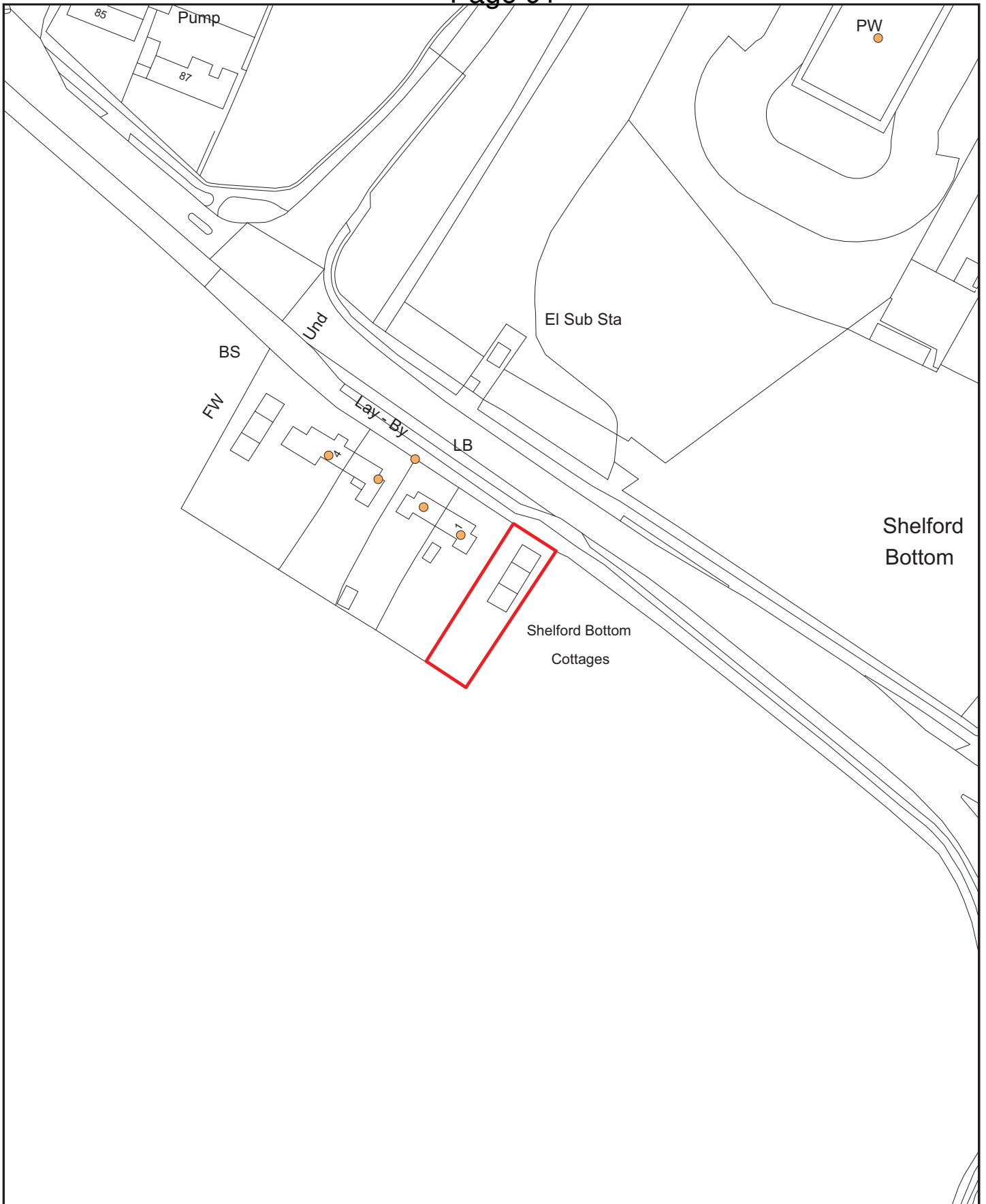
- i) During demolition and construction, there shall be no bonfires or burning of waste on site except with the prior permission of the District Environmental Health Officer in accordance with best practice and existing waste management legislation.

- ii) The granting of a planning permission does not constitute a permission or licence to a developer to carry out any works within, or disturbance of, or interference with, the Public Highway, and that a separate permission must be sought from the Highway Authority for such works.
- iv) Foul drainage from the proposed development shall be discharged to the public foul sewer unless it can be satisfactorily demonstrated that a connection is not reasonably available.
- v) Any 'non mains' foul water drainage system may require the prior written Consent of the Agency under the term of the Water Resources Act 1991. Such consent may not be forthcoming. This would ultimately be decided by the Agency's National Permitting Team. The applicant can download the application form from our website or our National Customer Contact Centre can send one. The contact number is 03708 506 506 (Monday–Friday, 8am–6pm).
- vi) New Septic Tanks (where permitted):
Foul drainage may be discharged to a septic tank and soakaway system which meets the requirements of British Standard BS 6297: 1983 and which complies with the following:- (a) there is no connection to any watercourse or land drainage system and no part of the soakaway system is situated within 10 metres of any ditch or watercourse, or within 50 metres of a well, borehole or spring. (b) porosity tests are carried out to the satisfaction of the Local Planning Authority to demonstrate that suitable subsoil and adequate land area is available for the soakaway (BS 6297: 1983 refers).
- vii) Connection to an Existing Septic Tank:
The applicant is advised to obtain professional advice as to whether the septic tank and its associated soakaway system is adequate to accept the additional drainage resulting from this development.
- viii) The applicant must ensure that there is no discharge of effluent from the site to any watercourse or surface water drain or sewer.

Background Papers: the following background papers were used in the preparation of this report:

- South Cambridgeshire Local Development Framework Core Strategy DPD 2007
- South Cambridgeshire Local Development Framework Development Control Policies DPD 2007
- South Cambridgeshire Local Development Framework Supplementary Planning Documents: Trees & Development Sites SPD - Adopted January 2009, Biodiversity SPD - Adopted July 2009, Landscape in New Developments SPD - Adopted March 2010, and District Design Guide SPD - Adopted March 2010
- National Planning Policy Framework
- Planning File References: S/1492/12/FL , S/2277/02/F and S/0556/91/F

Contact Officer: Karen Pell-Coggins - Senior Planning Officer
Telephone: (01954) 713230



South
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Planning Dept - South Cambridgeshire DC



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SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

5 September 2012

AUTHOR/S: Planning and New Communities Director

S/1306/12/FL - LANDBEACH**Local Authority Depot including secure compound for vehicle parking area and associated open storage and new office building (retrospective application) at Cambridge Waste Management Park, Ely Road for Frimstone Ltd****Recommendation: Delegated Approval****Date for Determination: 20 September 2012**

This application has been reported to the Planning Committee for determination because the development is intended for occupation by South Cambridgeshire District Council.

Departure from the development plan**To be presented to the Committee by Ray McMurray****Site and Proposal**

1. This application seeks retrospective planning permission for development which has commenced for the laying out of a replacement local authority depot on reclaimed land within an area in use for landfill and recycling purposes.
2. The site has an area of 1.2 hectares. It is located in the southern part of Cambridge Waste Management Park, a facility that takes waste from much of the county. To the north west of the site are various storage bays and stockpiles of aggregates and recycled waste and associated buildings and access road. To the north east the access road runs along the western side of Beach Ditch, a functioning open drainage channel. Across Beach Ditch to the south east are offices, buildings and depots associated with the industrial estate off Ely Road, including the existing depot of South Cambridgeshire District Council. To the south west are the offices and research establishments comprising IQ Cambridge (formerly Cambridge Research Park). To the south west there is a landscape bund adjacent to a small lake and open countryside.
3. Access to the site is via an internal road which runs along the western side of Beach Ditch through a weighbridge at the Amy Cespa premises adjacent to the A10. A separate wash bay building adjoins the access gates to the site.
4. The full application, dated 11 June 2012, proposes the formation of a surfaced car park for the provision of 116 car spaces and 4 disabled parking bays, 34 truck parking spaces, 19 van parking spaces, and cycle parking. Areas are shown for plant, equipment and bin storage, for shipping container storage, a sweeper discharge area and vehicle turning areas. The proposal includes a single-storey office to be faced in brick with a dual-pitched profiled metal roof, and having gross floorspace 511 square metres. Metal security fencing has been erected on the perimeters, together with seven 8-metre high lighting columns.

5. The site has been designed to accommodate South Cambridgeshire District Council Environmental Service's fleet of refuse collection vehicles and associated plant and equipment together with office and staff welfare facilities. The hours of operation are to be 06:00 to 18:00 Monday to Friday with occasional Saturdays.

Constraints

6. The site lies in the countryside outside the designated area of the adjacent Established Employment Area under policy ET/3. Cambridge Waste Management Park operates under planning permissions granted by Cambridgeshire County Council as minerals and waste planning authority. In the Cambridgeshire and Peterborough Minerals and Waste Development Plan: Minerals and Waste Site Specific Proposals Development Plan Document (2012) the site is designated as an Existing Minerals and Waste Site, and shown to be within a Waste Consultation Area and a Mineral Consultation Area.
7. The water body to the south west is Landbeach Pits and Willow Wood County Wildlife Site which contains a colony of Great Crested Newts. Beach Ditch is a County Wildlife Site known as Beach and Engine Drain. A Scheduled Monument, Car Dyke Roman Canal, is located 200 metres to the south west.
8. The site is underlain by the Cam and Ely Ouse Woburn Sands groundwater body, a Water Framework Directive protected area.

Planning History

9. Various planning applications relate to the Cambridge Waste Management Park and in particular:

S/1578/99	Recycling of wastes and aggregates, treatment of household waste, composting of waste, remediation of old landfill, restoration of land to agriculture and nature conservation (wetland habitat), tree and hedge planting.	Approved 21.12. 2001
Condition 3 Section 106 Agreement	Phased landscaping scheme Second Schedule Section 3: Construction and maintenance of a landscaping bund	Dated 14.12.2001

10. Planning permission has previously been granted (but not implemented) or a replacement depot and buildings to be occupied by SCDC and other parties on nearby land to the west of the site on land occupied by Frimstone Ltd, within the designated industrial park:

S/1985/10	Erection of replacement office and workshop building, refuelling facilities, storage areas and vehicle parking following demolition of existing office and workshop buildings	Approved 10.3.2011
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Planning Policy

11. National Planning Policy Framework (2012)

12. **Cambridgeshire and Peterborough Minerals and Waste Development Plan**
 - i) **Minerals and Waste Site Specific Proposals Development Plan Document (2012)**

Site is designated as 'Existing Minerals and Waste Site' and within a 'Waste Consultation Area' and 'Mineral Consultation Area'.

- ii) **Core Strategy (2011)**
 - CS27 Mineral Consultation Areas
 - CS30 Waste Consultation Areas

13. South Cambridgeshire Development Control Policies Development Plan Document (2007)

- DP/1 (Sustainable Development)
- DP/2 (Design of New Development)
- DP/3 (Development Criteria)
- DP/7 (Development Frameworks)
- ET/1 (Limitations on the Occupancy of New Premises in South Cambridgeshire)
- ET/3 (Development in Established Employment Areas in the Countryside)
- ET/5 (Development for the Expansion of Firms)
- NE/1 (Energy Efficiency)
- NE/3 (Renewable Energy Technologies in New Development)
- NE/4 (Landscape Character Areas)
- NE/6 (Biodiversity)
- NE/8 (Groundwater)
- NE/9 (Water and Drainage Infrastructure)
- NE/11 (Flood Risk)
- NE/12 (Water Conservation)
- NE/14 (Lighting Proposals)
- TR/1 (Planning for More Sustainable Travel)
- TR/2 (Car and Cycle Parking Standards)
- TR/3 (Mitigating Travel Impact)

14. South Cambridgeshire Local Development Framework Supplementary Planning Documents

- Biodiversity SPD (2009)
- District Design Guide SPD (2010)
- Landscape in New Developments SPD (2010)

15. Consultation by South Cambridgeshire District Council as Local Planning Authority

16. **Waterbeach Parish Council** – No objection.

17. **Landbeach Parish Council** – Recommendation of approval.

18. **Cottenham Parish Council** - No response received.

19. **Scientific Officer** – The site is adjacent to filled land which has known gassing issues, which should be investigated and mitigated or rendered harmless. Recommended condition for ground gas investigation before development of the office building commences.

20. **Environmental Health Officer**- Recommended conditions relating to the hours of operation of powered machinery during the construction period.

21. **Contracts Manager, Environmental Services** – The proposed provision for refuse collection is adequate.

22. **Ecology Officer** - The site has very low value for Great Crested Newts due to the presence of an amphibian barrier. The site does not appear to have an adverse effect upon the hydrology of the County Wildlife Sites. Enhanced planting and widening of the buffer zone should be secured by condition.
23. **Natural England**- The proposal does not appear to affect any statutorily protected sites or landscapes. Standing advice applies.
24. **Development Control, Cambridgeshire County Council** – The proposal will not impact upon either existing or future mineral extraction or waste management operations. No objection subject to access being taken only from the A10 roundabout.
25. **Environment Agency**- No objection to the proposal subject to the imposition of suitable conditions for the investigation of site contamination, together with a remediation strategy. A scheme of surface water disposal is required, as is a foundation works risk assessment report in the event of piling being proposed.
26. **Old West Internal Drainage Board** – No objection.
27. **Archaeology Unit, Cambridgeshire County Council** – No objection.
28. **English Heritage**- Further assessment is required on the potential impact of the proposal on the setting of Carr Dyke Scheduled Monument, to the south west.
29. **Highways Agency** – No objection. No adverse impact upon the A10.
30. **Local Highway Authority**- No objection.
31. **Representations by members of the public**
None received

Material Planning Considerations

Principal of development

32. The site lies outside the area designated for employment development and uses in the LDF, nor can the site said to be previously developed as defined in the NPPF. The development does not conform in principle to policies DP/7, ET/1 or ET/5 of the LDF. However, as discussed below, no significant harm to material considerations have been identified by consultees.

Traffic impact

33. The application has been supported by a Transport Assessment, which clarifies that all heavy commercial traffic from the site will access to A10 via the roundabout built to serve the Cambridge Waste Management Park. This will be an improvement over the existing situation where lorries from the depot access the A10 via a T-junction. It will also obviate the need for unladen collection lorries to return via this access at the end of the day to park overnight, amounting to a reduction of 64 lorry movements a day on the A10. Staff cars and vans will continue to access the site via the T-junction onto the A10, as existing.

Visual impact

34. The site is screened from the open countryside by substantial landscape bunds. There are no views of the site from the A10 or IQ Cambridge. The lighting columns are similar in height to others on this part of the Waste Management Park, and are seen in the context of substantial storage heaps. The proposed office building is single-storey in height.

There is considered to be no adverse impact to the appearance of the countryside from this development.

Habitat enhancement

35. In response to the comments of the Ecology Officer, the agent has advised that the applicant is willing to carry out additional planting and provide amphibian hibernation sites, but are not willing to relocate the Great Crested Newt fence because of the need to facilitate future site maintenance. The response of the Ecology Officer is awaited.

Other matters

36. The applicant has agreed to provide an assessment of the impact of the proposal upon the setting of Carr Dyke Scheduled Monument. The comments of English Heritage on this assessment, when received, should be taken into account prior to the application being determined.
37. The depot is intended as an alternative to that approved under planning permission S/1985/10. This earlier permission is unimplemented but will not expire until 10 March 2014. It is not considered necessary to seek to revoke this permission, as the current proposal is on different land and does not propose to use the same access for heavy goods traffic. As a result any cumulative impact would result primarily from the use of the T-junction onto the A10 by cars and vans from the development, which has been assessed as capable of accepting this traffic.

Conclusion

38. Consultation responses have revealed concerns relating to biodiversity habitat and the setting of a scheduled monument. Members will be provided with an officer update prior to Planning Committee.
39. Subject to resolution of these issues it is recommended that officers be granted delegated powers for planning permission to be issued for the development as a departure from the development plan.

Recommendation

40. It is recommended that the Planning Committee gives officers delegated powers to approve the application subject to the following conditions:

Conditions

1. The development hereby permitted shall be carried out in accordance with the following approved plans: CP/FRIM/WBVC/04; CP/FRIM/WBVC/06; CP/FRIM/WBVC/07; CP/FRIM/WBVC/08; CP/FRIM/WBVC/103; CP/FRIM/WBVC/109; CP/FRIM/WBVC/111 'Parking Plan'; CP/FRIM/WBVC/111 'Application Boundary'.
(Reason - To facilitate any future application to the Local Planning Authority under Section 73 of the Town and Country Planning Act 1990.)
2. All hard and soft landscape 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.

(Reason - To ensure the development is satisfactorily assimilated into the area and enhances biodiversity in accordance with Policies DP/2 and NE/6 of the adopted Local Development Framework 2007.)

3. The development of the office building, hereby approved, shall not commence until there has been submitted in writing to and approved in writing by the Local Planning Authority
 - a) An appropriate scheme for the investigation and monitoring of the site for ground gas.
 - b) Where required, detailed proposals for the mitigation or otherwise rendering harmless of any ground gas found to be present on the site.

(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 water, 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 DP/1 of the adopted Local Development Framework 2007)

4. No development approved by this planning permission shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

1) A preliminary risk assessment which has identified:

- All previous uses
- Potential contaminants associated with those uses
- A conceptual model of the site indicating sources, pathways and receptors
- Potentially unacceptable risks arising from contamination at the site

2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to controlled waters as we are not confident that the initial site investigation sampling and the results of the risk assessment provides sufficient evidence to prove that there is no risk to controlled waters on site

3) The results of the site investigation and detailed quantitative risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

(Reason: To protect and prevent the pollution of controlled waters (particularly the Beach Ditch of the Cam and Ely Ouse (including South Level) water body, a Nitrates Directive protected area) from potential pollutants in line with Environment Agency Groundwater Protection (GP3:2008) position statements P1-4, and P9-5 to P9-7.

(National Planning Policy Framework (NPPF) paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution. Government policy also states that planning policies and decisions should also ensure that adequate site investigation information, prepared by a competent person, is presented (NPPF, paragraph 121).

(The Anglian river basin management plan requires the restoration and enhancement of water bodies to prevent deterioration and promote recovery of water bodies. Without this condition, the impact of potential contamination from leaching of pollutants through the more permeable soils found within the superficial deposits, can cause deterioration of a quality element to a lower status class and prevent the recovery of the Cam and Ely Ouse Chalk (including South Level) water body, because it would:

- result in failure of the prevent or limit objective for groundwater
- cause rising trends in chemicals in the water body
- result in the release of priority hazardous substances (due to the unknown nature of contaminants present within the Made Ground on site

5. No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.
(Reason: To protect and prevent the pollution of controlled waters (particularly the Beach Ditch of the Cam and Ely Ouse (including South Level) water body, a Nitrates Directive protected area) from potential pollutants in line with Environment Agency Groundwater Protection (GP3:2008) position statements P9-6 and P9-7).
6. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.
(Reason: To protect and prevent the pollution of controlled waters (particularly the Beach Ditch of the Cam and Ely Ouse (including South Level) water body, a Nitrates Directive protected area) from potential pollutants in line with Environment Agency Groundwater Protection (GP3:2008) position statements P9-6 and P9-7.)
7. Prior to the use commencing a scheme for surface water disposal needs to be submitted to and approved by the local planning authority. The scheme shall be implemented as approved. Infiltration systems should only be used where it can be demonstrated that they will not pose a risk to groundwater quality
(Reason: To protect and prevent the pollution of controlled waters in line with the Environment Agency Groundwater Protection (GP3:2008) position statements P4-1 to P4-12 inclusive. The water environment is potentially vulnerable and there is an increased potential from pollution from inappropriately located and/or designed

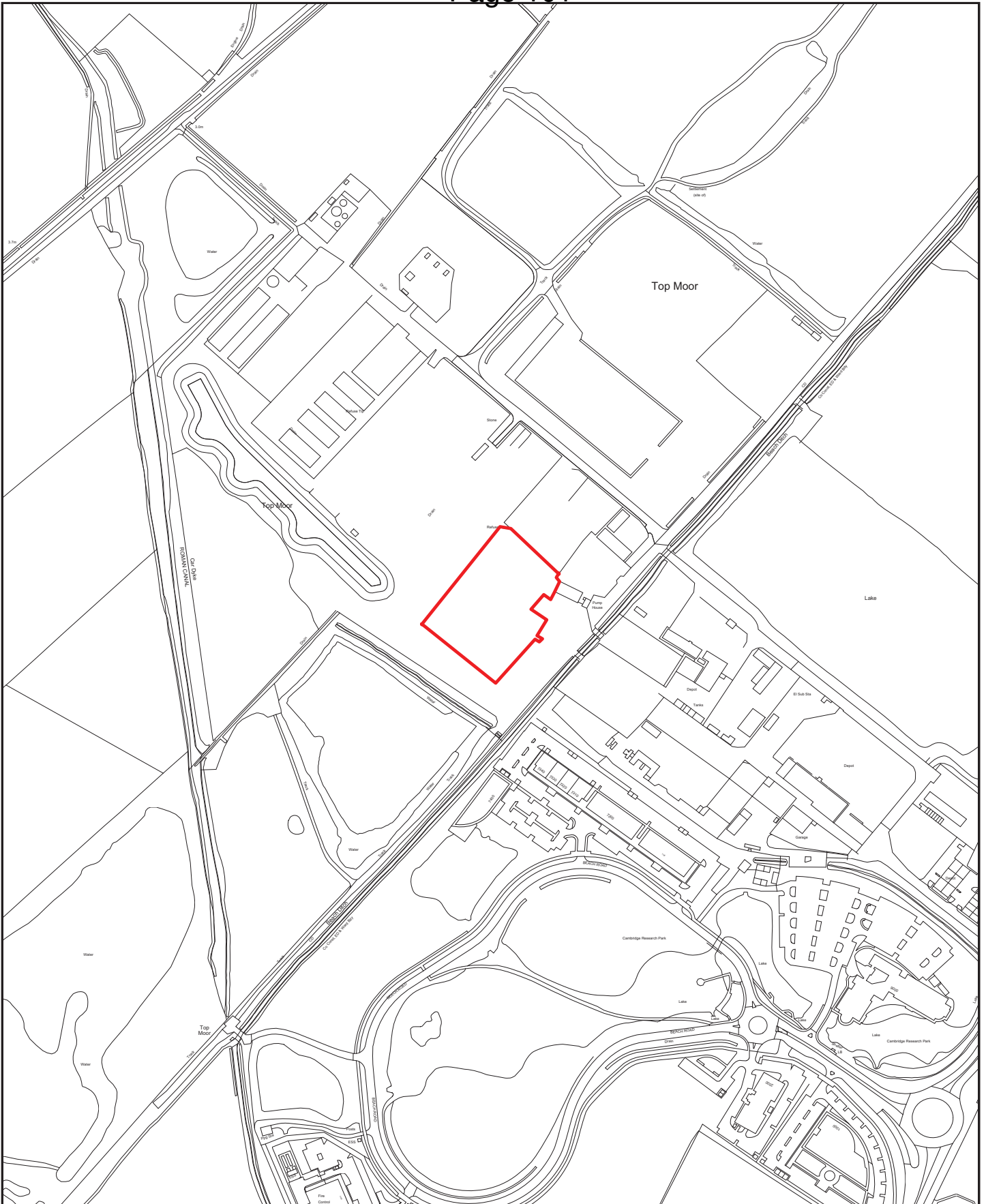
infiltration sustainable drainage systems (SuDS) such as soakaways, unsealed porous pavement systems or infiltration basins.)

8. If piling foundations are proposed then the method selected should be presented in a "Foundation Works Risk Assessment Report" which should be submitted to and approved by the Local Planning Authority before development commences. The Environment Agency recommend that piling on contaminated sites is avoided where possible, and that non-invasive methods, such as rafts, should be used instead. Where there is no alternative to piling, a method should be selected that minimises the risks of groundwater pollution or gas migration. Mitigation measures and/or environmental monitoring may need to be incorporated into the design.
(Reason: To protect and prevent the pollution of controlled waters in line with Environment Agency Groundwater Protection (GP3:2008) position statement P10-3. Piling or any other foundation designs using penetrative methods can result in risks to potable supplies from, for example, pollution / turbidity, risk of mobilising contamination, drilling through different aquifers and creating preferential pathways. Thus it should be demonstrated that any proposed piling will not result in contamination of groundwater.)
9. Any material conditions recommended by the Ecology Officer, by the Scientific Officer or by English Heritage.

Background Papers: the following background papers were used in the preparation of this report:

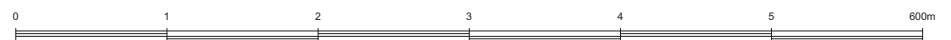
- National Planning Policy Framework (2012)
- Cambridgeshire and Peterborough Minerals and Waste Development Plan
- Minerals and Waste Site Specific Proposals Development Plan Document (2012) and Core Strategy (2011);
- South Cambridgeshire Development Control Policies Development Plan Document (2007)
- Planning files S/1306/12/FL; S/1985/10.

Case Officer: Ray McMurray – Principal Planning Officer
Telephone: (01954) 713259



**South
Cambridgeshire
District Council**

Planning Dept - South Cambridgeshire DC



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SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

5 September 2012

AUTHOR/S: Executive Director (Operational Services) / Corporate Manager (Planning and New Communities)

APPEALS AGAINST PLANNING DECISIONS AND ENFORCEMENT ACTION

1. To inform Members about appeals against planning decisions and enforcement action, and proposed hearing and inquiry dates, as at 23 August 2012.
2. **Decisions Notified By The Secretary of State**

Ref.no	Details	Decision	Decision Date
S/1805/11/FL	Van Stomp Ltd Dernford Barn Sawston Road Stapleford Unrestricted occupation of the hostel accommodation	Dismissed	01/08/12
S/0915/11/FL	Mr & Mrs Brackenboro Barons Farm, Angle Lane Shepreth New access	Dismissed	02/08/12
S/1708/10/F	Mr D Chapman 37 High Street Bassingbourn Demolition of outbuilding and erection of Car port wall installation of entrance gates	Allowed	14/08/12
S/2170/11/FL	Mr W Bradford Land west of Desmonds Close Hauxton Erection of 8 Dwellings	Withdrawn	20/08/12
S/2170/11/F	Mr W Bradford Land west Desmond Close Hauxton	Withdrawn	20/08/12

3. **Appeals received**

Ref. no.	Details	Decision	Decision Date
S/0624/12/F	Mr & Mrs Roberts Land at Church	Refused	09/08/12

	Lane, Graveley Dwelling		
S/2521/11/F	T Deans Deans Farm Shepreth Road Fowlmere Conversion of building (B1 use) To poultry pet & equestrian store	Refused	10/08/12
S/0440/12/FL	Weston Homes(Housing) Ltd Land adj 7 Station Road, Over 25 Dwellings 10 Affordable	Refused	14/08/12
S/0705/12/LB	Mr Farquhar Homeside Cottage High Street Abington Pigotts Rear Extension	Refused	17/08/12
S/0706/12/FL	Mr Farquhar Homeside Cottage High Street Abington Pigotts	Refused	17/08/12
S/1180/12/FL	Mr D I Bowyer 22 Fen End Willingham Demolition of existing dwelling & erection of single storey dwelling	Refused	20/08/12
S/0272/12/PO	Mr & Mrs MKE Prime 43 Chiswick End Meldreth Modify Planning Obligation of permission S/0903/91/O	Refused	20/08/12

4. **Local Inquiry and Informal Hearing dates scheduled before the next meeting on 5 September 2012.**

Ref. no.	Name	Address	Hearing
S/0307/12/FL	Mr J Frostick	Plots 2&3 The Oaks, Meadow Road Willingham	20 September 2012 Confirmed

5 Summaries of recent decisions

None

Background Papers: the following background papers were used in the preparation of this report: None

Contact Officer: Nigel Blazeby – Development Control Manager
Telephone: (01954) 713165

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