

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

16 August 2018

AUTHOR/S: Joint Director for Planning and Economic Development

Application Number: S/0793/18/FL

Parish(es): Linton

Proposal: Demolition of existing dwelling and construction of 7 dwellings

Site address: 1 Horseheath Road

Applicant(s): Domus CB3 Developments LLP

Recommendation: Approval

Key material considerations: Principle of Development
Density
Housing Mix
Affordable Housing
Developer Contributions
Character and Appearance of the Area
Biodiversity
Trees/ Landscaping
Highway Safety
Flood Risk
Neighbour Amenity
Planning history and consistency of decision making.

Committee Site Visit: Yes

Departure Application: No

Presenting Officer: Karen Pell-Coggins, Senior Planning Officer

Application brought to Committee because: A recent Court of Appeal decision pertinent to this case was received following Planning Committee's previous resolution but prior to a decision being issued, together with a letter from the solicitor of a neighbour suggesting the likelihood of judicial review proceedings if the application was not freshly considered by Planning Committee.

Date by which decision due: 17 August 2018 (Extension of Time agreed)

Summary

1. This application was considered by Planning Committee in June 2018 prior to which Members visited the site. Members resolved to approve the application.

2. Following Planning Committee, but prior to the Council issuing the decision notice, a Court of Appeal decision *DLA Delivery Ltd v Baroness Cumberledge of Newick and Secretary of State for Communities and Local Government* 2018 EWCA Civ 1305 was received that is a material consideration in the determination of the application.
3. The principal issue that arises out of the Court of Appeal decision in relation to this matter is consistency.
4. In *DLA Delivery*, the Secretary of State determined that a particular policy (policy CT1) was “out of date” having two months earlier determined that policy CT1 should be regarded as “up-to-date” in respect of a separate development proposal. It was held that the Secretary of State was required to take account of his own decisions in an unrelated case dealing with the same issues. It further stated that no reasonable secretary of state would have failed to take reasonable steps to ensure that his own decisions in cases of the same kind, in the same district, during the same period, were consistent with each other, or that any inconsistency was clearly explained.
5. Submissions have been received from a solicitor and planning consultant acting on behalf of a neighbour challenging the previous resolution on grounds of inconsistency.
6. The challenge that has been received is that the Council is not being consistent in its decisions on this site, particularly in relation to considering the impact on the amenities of neighbours and also the amenities of future residents of the proposed dwellings.
7. The site has a planning history; there have been four relevant planning applications on the site prior to this one. Two applications have been refused and one was approved and one was withdrawn. More detail is set out in the planning history below.
8. In light of the possible Judicial Review proceedings, the decision notice was not issued, the application was held in abeyance and applicant advised accordingly..
9. The case has been reviewed again and is now being presented back to Planning Committee for Members to consider afresh. The application will be subject to a further site visit which will include viewing the proposed development from at least one neighbouring property.
10. Having carefully reviewed the history and all consultee comments and representations, and being mindful of this recent Appeal Court Decision, officers are satisfied that this scheme is acceptable and recommend approval of the application
11. A detailed assessment is set out later in this report under the section headed ‘planning assessment’. Amongst other considerations, the following points are pertinent:
 - a) Two of the previous applications were outline. The plans submitted with the outline applications were illustrative only where the exact positions of the windows were not known.
 - b) This is a different scheme to the earlier applications. This one is a full application where rooms and position of windows are known. An assessment has been made not (i) only of the distances between the building faces of the respective properties, but also as to (ii) the angle of view, angle of the existing dwelling relative the proposed dwellings, (iii) location and height of boundary fence and (iv) difference in levels.

c)The District Design Guide does provide advice setting out minimum distances that are preferable to protect privacy and overlooking. It is adopted guidance; it does not have the status of adopted policy.

Relevant Planning History

13. There have been four relevant planning applications on the site prior to this one.

Application 1

S/2504/14/OL - Demolition of the existing dwelling and erection of 9 dwellings – Withdrawn

Application 2

S/2019/15/OL - Demolition of the existing dwelling and erection of 9 dwellings – Refused

Planning application S/2109/15/OL was an outline application for the erection of 9 dwellings. An illustrative plan was submitted with the application. In terms of the relationship to neighbours, the illustrative plan showed the new units being situated 20 metres from the property at No.24 Parsonage Way. Amongst other things, the committee report stated that this did not accord with the guidance of a minimum of 25 meters set out in the Design Guide.

The application was refused by the Planning Committee on the grounds that the proposal would result in overdevelopment of the site by virtue of the applicant's failure to demonstrate that nine dwellings would not result in harm to the amenity of adjoining neighbouring properties. The decision notice states: -

The proposal would result in overdevelopment of the site by virtue of the applicant's failure to demonstrate that nine dwellings would not result in harm to the amenity of adjoining neighbouring properties. The proposal would therefore be contrary to Policies DP/2 and DP/3 of the South Cambridgeshire Local Development Framework Core Strategy DPD 2007 that states a new development should preserve or enhance the character of the local area and planning permission will not be granted where the proposed development would have an unacceptable adverse impact on residential amenity.

Application 3

S/0623/16/OL - Outline application for Demolition of the existing dwelling and erection of 7 dwellings – Approved

This was an outline application for the erection of 7 dwellings. An illustrative plan was submitted with the application that showed the new units being situated 25 metres from the property at No. 24 Parsonage Way. Amongst other things the delegation report stated that the District Design Guide requires a minimum distance of 25 metres is provided between rear or side building faces containing habitable rooms. The proposed layout illustrated that 25 metres could be provided between the rear of houses 1 to 5 and the neighbouring property at Parsonage Way. The application was approved under delegated powers.

Application 4

S/3184/17/FL - Erection of 6 market dwellings and 3 affordable housing dwellings following demolition of existing dwelling – Refused

This was a full planning application for the erection of 9 dwellings. In terms of the

relationship with neighbours, the new dwellings did not have any first floor habitable room windows facing No. 24 Parsonage Way. The relationship between the first floor windows of No. 24 Parsonage Way and the gardens of Plots 1 and 2 was not, however, acceptable as a result of the distance of 9 metres from the rear part of the garden and 20 metres from the main sitting out area to the rear of the new dwellings. In addition there was concern about the impact of the proposal on existing protected trees and the cramped nature of the development.

The application was refused by the Planning Committee on the following grounds: -

i) The proposed development by virtue of the siting of Plots 7 and 8 in close proximity to Horseheath Road, is considered to result in an unduly prominent cramped form of development at the entrance to the site that would harm the character and appearance of the area. The proposal is therefore contrary to Policy DP/2 of the of the South Cambridgeshire Local Development Framework Development Control Policies DPD 2007 that states all new development must be of high quality design and preserve or enhance the character of the local area.

ii) The existing dwelling at No. 24 Parsonage Way, by virtue of the position of the first floor bedroom window in the rear elevation, is considered to adversely affect the amenities of the future occupiers of the dwelling on Plots 1 and 2 through a loss of privacy. The proposal is therefore contrary to Policy DP/3 of the South Cambridgeshire Local Development Framework Development Control Policies DPD 2007 that states planning permission will not be granted where the proposed development would have an unacceptable adverse impact on residential amenity.

iii) The existing protected trees close to the southern boundary of the site, by virtue of their positions, are considered to seriously harm the amenities of the future occupiers of the dwellings on Plots 7 and 8 through being visually dominant when viewed from their rear gardens. The proposal is therefore contrary to Policy DP/3 of the South Cambridgeshire Local Development Framework Development Control Policies DPD 2007 that states planning permission will not be granted where the proposed development would have an unacceptable adverse impact on residential amenity.

Environmental Impact Assessment

15. The application does not fall under Schedule 1 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and would not exceed the criteria in section 10b of Schedule 2 of the regulations. The application does not therefore require the submission of an Environmental Impact Assessment.

National Guidance

16. National Planning Policy Framework 2018
National Planning Practice Guidance

Development Plan Policies

17. **South Cambridgeshire Local Development Framework Core Strategy DPD 2007**
ST/2 Housing Provision
ST/5 Minor Rural Centres
18. **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 and New Developments
DP/7 Development Frameworks
HG/1 Housing Density
HG/2 Housing Mix
HG/3 Affordable Housing
NE/6 Biodiversity
NE/11 Flood Risk
SF/10 Outdoor Playspace, Informal Open Space, and New Developments
SF/11 Open Space Standards
TR/1 Planning For More Sustainable Travel
TR/2 Car and Cycle Parking Standards

19. **South Cambridgeshire LDF Supplementary Planning Documents (SPD):**

Open Space in New Developments SPD - Adopted January 2009
Biodiversity SPD - Adopted July 2009
Trees & Development Sites SPD - Adopted January 2009
Landscape in New Developments SPD - Adopted March 2010
Affordable Housing SPD - Adopted March 2010
District Design Guide SPD - Adopted March 2010
RECAP Waste Management Design Guide 2012

20. **South Cambridgeshire Local Plan Submission - March 2014**

S/3 Presumption in Favour of Sustainable Development
S/5 Provision of New Jobs and Homes
S/7 Development Frameworks
S/9 Minor Rural Centres
HQ/1 Design Principles
H/7 Housing Density
H/8 Housing Mix
H/9 Affordable Housing
NH/4 Biodiversity
CC/9 Managing Flood Risk
SC/6 Indoor Community Facilities
SC/7 Outdoor Playspace, Informal Open Space, and New Developments
SC/8 Open Space Standards
TI/2 Planning for Sustainable Travel
TI/3 Parking Provision
TI/8 Infrastructure and New Developments

Consultation

21. **Linton Parish Council** – Recommends refusal of the revised plans. It originally had no recommendation. Please see Appendices 1, 2 and 3 for a full copy of all comments.

22. **Local Highways Authority** – Confirms that it would not seek to adopt the development in its present format and requests a condition in relation to the submission of a letter to state that the site will not be presented for adoption now or in the future. Requires conditions in relation to the driveway constructed so that it falls and levels are such that no private water drains on to the public highway, the driveway to be constructed from bound material and a traffic management plan during works. Suggests an informative with regards to works to the public highway.

23. **Trees and Landscapes Officer** –Has no objections and comments that a Tree Survey and Arboricultural Implications Assessment have been submitted with the application. This appears to be a preliminary document and requires greater detail once the plans for the site are finalised. Requires a condition in relation to the submission of a detailed Arboricultural Method Statement and Tree Protection Strategy.
24. **Landscape Design Officer** – Has no objections and comments that the development would not result in material harm to the landscape character and views from the local and wider area. Requests conditions in relation to hard and soft landscaping details, implementation of landscaping and SUDs use of permeable paving.
25. **Ecology Officer** – Has no objections and comments that a protected species and bat survey has been submitted with the application. This is sufficient and no further surveys are required. Although the building is being used as a roost for bats, the mitigation strategy to move any risk to the bats is agreed. Requires conditions in relation to ecological measures carried out in accordance with the Bat Survey and a scheme of biodiversity enhancement.
26. **Environmental Health Officer** – Requests conditions in relation to hours of use of site machinery and plant, noisy works and construction related deliveries, pile driven foundations and burning of waste. Suggests an informative with regards to noise and disturbance to neighbours.
27. **Contaminated Land Officer** – Comments that there are no immediately evident environmental constraints that would require an investigation into contamination. However, given the sensitive end use, a condition is suggested in relation to contamination found on site during works.
28. **Drainage Officer** – Has no objections subject to conditions in relation to surface water and foul drainage.

Representations

29. The occupiers of No. 24 Parsonage Way object to the application on the grounds of the scale and dominance of the development that would be imposing to the dwelling and garden and a loss of privacy to their dwelling and garden as Plots 1 to 6 fall within 25 metres of the nearest window.
30. The occupiers of No 24 Parsonage Way have specifically raised the points set out below: -
 - i) incorrect sectional drawings.
 - ii) incorrect factual statements as to the closeness of the proposed properties and the extent of overlooking with an error stating a distance of 13 metres where in fact there is just 10.5 metres.
31. They have also raised concerns about the latest comments not being on the website.
32. A solicitor and planning consultant acting on behalf of the neighbour have drawn attention to the recent Court of appeal decision. Please see Appendices 5 and 6 for a copy of the solicitors letter and consultants report. Included in the letter from the solicitor acting for a neighbour are the following comments: -

“...In the case of the planning application about which objection is now made the Council has consistently refused any application within the 25 metre zone derived

from its adopted policy.

The previous planning history of the site and the advice in the District Design Guide SPD has been taken into account prior to any recommendation by the officer.

This is obvious from the reasons for refusal as set out in the face of the decision notices. Quite simply the Council has failed to properly apply the principle of consistency or its adopted policy that it has used to refuse similar applications on the same site. In the absence of a detailed explanation, which would need to have been contained in a committee report, the Council has erred in law...”

“...My client raised a number of detailed technical points at the Committee. These had not been considered in detail by the officers and they had not commented to the required level of detail. Once the issues had been raised the proper course of action would have been for the committee to have deferred the decision to enable the officers to fully and properly consider the detailed points and then report back with a considered view as to how those points impacted on the recommendation to committee. A decision cannot safely stand when it is based on incorrect sectional drawings, incorrect factual statements as to the closeness of the proposed properties and the extent of overlooking. The difference between 10.5 meters and 13 metres in the context of this application is very significant given we are talking about overlooking and its impact on amenity not only for our clients but any prospective occupants of the proposed properties. It is also a significant breach of the council’s policy....”

33. These points are addressed later in the report.
34. The occupier of No. 31 Parsonage Way has concerns in relation to the scale of Plot 7 and overshadowing of the garden.
35. The occupier of No. 4 Kinsey Place objects to the application on the grounds of high density, unbalanced use of two large houses, lack of parking, visual intrusion, noise, smell and fumes from parking, overshadowing/loss of light and loss of privacy.

Site and Surroundings

36. The site is located within the Linton village framework. It measures 0.3 of a hectare in area and currently comprises a detached, two storey dwelling set within a large plot in an elevated position above Horseheath Road. There is a Cedar tree and Pine tree along the front (southern) boundary of the site and a Beech tree close to the rear (northern) boundary that are protected by Tree Preservation Orders. The site is situated within flood zone 1 (low risk).
37. Modern housing developments are situated to the north and west of the site. A mix of dwellings is situated on the southern side of Horseheath Road. The Cathodean Centre is situated to the west.

Proposal

38. The proposal seeks permission for the erection of seven dwellings following demolition of the existing dwelling.
39. Revised plans were received on 10 May 2018 (block plan and Plots 5, 6 and 7 plans and elevations) and 5 June 2018 (section plan). These plans revised changed the siting of Plots 5, 6 and 7 and the design of Plots 6 and 7.

40. All of the dwellings would be available for sale on the open market. The mix proposed is 3 x two bedroom houses, 2 x three bedroom houses and 2 x four bedroom houses.
41. There would be a single access point (5 metres width) to Horseheath Road to the west of the site adjacent the access to the Cathodean Centre. The road would run northwards along the eastern boundary and then turn eastwards.
42. The dwellings would be sited on the northern part of the site. They would comprise detached, semi-detached and terraced properties that would be two to two and a half storeys in height. The designs of the larger dwellings would incorporate gable features. The materials of construction would be buff brick, render and Larch cladded walls with slate and plain tile roofs.
43. Each four bedroom dwelling would have two on site parking spaces. Each three bedroom dwelling would have one on site parking space and one allocated parking space opposite. Each two bedroom dwelling would have one on site parking space. Two visitor parking spaces have been provided.
44. The Cedar, Pine and Beech trees subject to the Tree Preservation Orders would be retained and protected. A small 5 metres section of the hedge along Horseheath Road would be lost as a result of the access but the remainder would be retained and protected.
45. An open landscaped amenity area would be provided adjacent to the access on to Horseheath Road.

Planning Assessment

46. The key issues to consider in the determination of this application relate to the principle of development, density, housing mix, affordable housing, developer contributions, and the impacts of the development upon the character and appearance of the area, neighbour amenity, biodiversity, trees/landscaping, highway safety, flood risk and the planning history of the site and consistency of decision making.

Principle of Development

47. The site is located in the village framework of a Minor Rural Centre where there is a good range of services and facilities and residential developments of up to 30 dwellings are supported in policy terms.
48. The demolition of the existing dwelling and the erection of seven dwellings is therefore supported in principle. This has been established through planning consent S/0623/16/OL.
49. The existing dwelling is not of any significant architectural or historic merit and there are no objections in principle to its demolition.
50. The proposal would therefore comply with Policies ST/5 and DP/7 of the Local Development Framework (LDF).

Housing Density

51. The site measures approximately 0.28 of a hectare in area. The proposed scheme of seven dwellings would equate to a density of 25 dwellings per hectare. Whilst this

would this would not meet the requirement of 40 dwellings per hectare in more sustainable locations such as Linton, it is considered acceptable given the constraints of the site such as the protected trees.

52. The proposal would therefore accord with Policy HG/1 of the LDF.

Affordable Housing

53. The development would not comprise any affordable housing and would be wholly market housing.
54. Policy HG/3 of the LDF requires 40% affordable housing in developments of two or more dwellings. Policy H/9 of the emerging Local Plan originally required 40% affordable housing in developments of three or more dwellings. However, the recent proposed modifications to this policy has revised the wording to accord with the Written Ministerial Statement from 28 November 2014 (WMS) that states due to the disproportionate burden of developer contributions on small-scale developers, for sites of 10-units or less, and which have a maximum combined gross floor space of 1,000 square metres, affordable housing and tariff style contributions should not be sought.
55. The development is for seven dwellings that has a combined gross floor space of 876 square metres. This would fall under the threshold set out above.
56. The application was previously resolved to be approved subject to a condition to remove permitted development rights for extensions in order to ensure that if applications were made for any future extensions they would not result in the total floor space of the dwellings exceeding the 1000 square metres threshold.
57. This condition is not considered reasonable as the WMS states the following: -
i) contributions should not be sought from developments of 10-units or less, and which have a maximum combined gross floor space of no more than 1,000 square metres (gross internal area).
ii) affordable housing and tariff-style contributions should not be sought from any development consisting only of the construction of a residential annex or extension to an existing home.
58. Whilst the proposal would not therefore comply with Policy HG/3 of the LDF, it would comply with the proposed modifications to Policy H/9 of the emerging Local Plan that reflect the WMS 2014. Significant weight can now be attached to this policy as a result of the status of the plan and consistency with national policy.

Housing Mix

59. The proposed mix would consist of three x 2 bed dwellings, two x 3 bed dwellings and two x four bed dwellings. This mix would not comply with Policy HG/2 of the LDF that seeks a greater proportion of small units of accommodation in developments of up to 10 dwellings. However, it would provide a mix of dwellings sizes that would be more closely related to Policy H/8 of the emerging Local Plan that states the mix in developments of up to 10 dwellings should reflect local circumstances.
60. Whilst the proposal would not comply with Policy HG/2 of the LDF, it would comply with Policy H/8 of the emerging Local Plan that can be given some weight due to the status of the plan and lack of objections.

Developer Contributions

61. Policy DP/4 of the LDF states that planning permission will only be granted for proposals that have made suitable arrangements towards the provision of infrastructure necessary to make the scheme acceptable in planning terms.
62. Regulation 122 of the CIL Regulations states that a planning obligation may only constitute a reason for granting planning permission for the development of the obligation is: -
 - i) Necessary to make the development acceptable in planning terms;
 - ii) directly related to the development; and,
 - iii) fairly and reasonably related in scale and kind to the development.
63. The need for contributions towards open space, community facilities, education, health and waste receptacles could be considered necessary in this case to make the development acceptable in planning terms. However, the Written Ministerial Statement (WMS) dated 28 November 2014 that states due to the disproportionate burden of developer contributions on small-scale developers, for sites of 10-units or less, and which have a maximum combined gross floor space of 1,000 square metres, affordable housing and tariff style contributions should not be sought is a material consideration in relation to this matter.
64. The development is for seven dwellings that has a combined gross floor space of 876 square metres. This would fall under the threshold set out above.
65. Whilst the proposal would not therefore accord with Policies DP/4, SF/10 and SF/11 of the LDF and Policies SC/6, SC/7, SC/8 and TI/8 of the emerging Local Plan, it would accord with the WMS. This material consideration should be given significant weight due to compliance with national policy.

Character and Appearance of the Area

66. The northern side of Horseheath Road originally had a lower density of housing with single detached dwellings set within large plots. However, the character has gradually changed over the years and now comprises fairly high density, in-depth, modern housing developments.
67. The previous planning application on the site for nine dwellings under reference S/3184/17/FL was refused on the grounds that the siting of the dwellings on the southern part of the site close to the entrance would result in a prominent form of development when viewed from Horseheath Road.
68. The new scheme is considered to have addressed the reason for refusal set out above. The dwellings would now all be sited on the northern part of the site and would reflect the character and spacing of dwellings in Parsonage Way.
69. The southern part of the site adjacent to the entrance would now comprise an open landscaped area above a retaining wall. This is considered acceptable as it would preserve the character and appearance of this part of Horseheath Road.
70. The proposed form and design of the dwellings are considered satisfactory and would be in keeping with the character and appearance of the area that comprises a mix of different styles of dwellings. The dwelling on Plot 1 would have a gable design that would be different to the other dwellings and create a key focal point to the development along the access from Horseheath Road.

71. The external materials of construction for the development would replicate those found in the surrounding area.
72. The garden areas of the dwellings follows the advice set out in the District Design Guide, which advises two-bedroom properties to have private garden space of 40 sq m in urban settings and 50 sq m in rural settings, which each house with three bedrooms or more should have 50 sq m in urban settings and 60 sq m in rural settings
73. Whilst the bin collection point would be located over 30 metres away from some plots, this is considered reasonable as it needs to be within 25 metres of Horseheath Road for collection by the refuse vehicle. The position shown is considered the most appropriate location.
74. The proposal is therefore considered to comply with Policy DP/2 of the LDF.

Neighbour Amenity

75. In light of the comments received and given the history of the site, the aspect of neighbour amenity has been given particular scrutiny. On balance, it is the view of officers that taken as a whole the development is not considered to adversely affect the amenities of neighbours to an unacceptable degree or to harm the amenities of occupiers of the new dwellings such as to warrant a refusal of planning permission.
76. The previous planning history of the site, the advice in the District Design Guide SPD and the specific characteristics of the site and its surroundings have been taken into account prior to any recommendation by the officer
77. There have been three relevant planning applications on the site prior to this one.

1) Planning application S/2109/15/OL was an outline application for the erection of 9 dwellings. An illustrative plan was submitted with the application that showed the units being situated 20 metres from the property at No. 24 Parsonage Way. Amongst other things, the committee report stated that this did not accord with the Design Guide that requires a minimum distance of 25 metres. The application was refused by the Planning Committee on the grounds that the proposal would result in overdevelopment of the site by virtue of the applicant's failure to demonstrate that nine dwellings would not result in harm to the amenity of adjoining neighbouring properties. The full reasons for refusal are set out in the planning history section of the report.

2) Planning application S/0623/16/OL was an outline application for the erection of 7 dwellings. An illustrative plan was submitted with the application that showed the units being situated 25 metres from the property at No. 24 Parsonage Way. Amongst other things, the delegation report stated that the District Design Guide requires a minimum distance of 25 metres is provided between rear or side building faces containing habitable rooms. The proposed layout illustrated that 25 metres is provided between the rear of houses 1 to 5 and the neighbouring property at Parsonage Way. The application was approved under delegated powers.

3) Planning application S/3184/17/FL was a full planning application for the erection of 9 dwellings. The new dwellings did not have any first floor habitable room windows facing No. 24 Parsonage Way. The relationship between the first floor windows of No. 24 Parsonage Way and the gardens of Plots 1 and 2 was not, however,

acceptable as a result of the distance of 9 metres from the rear part of the garden and 20 metres from the main sitting out area to the rear of the new dwellings. In addition there were concerns about the impact on protected trees and the character of the area. The application was refused by the Planning Committee on the above grounds. The full reasons for refusal are set out in the planning history section of the report.

78. Although it is alleged inconsistency between officers' advice in relation to the current application under reference S/0793/18/FL and the advice given in S/3184/17/FL regarding the acceptability of any harm to the residential amenity of the occupiers of new dwellings, whether that harm is acceptable is ultimately a matter of planning judgment for Members.

79. The plans submitted with the outline applications were illustrative only and the exact positions of windows not known. The District Design Guide is adopted guidance but is not adopted "policy" as such term is commonly understood. It therefore carries less weight as guidance than if it were adopted policy. Nevertheless it is clearly a material consideration that carries some weight.

80. Considering the impact on each neighbouring property in turn:

No. 24 Parsonage Way

81. The development is not considered to result in an (i) unduly overbearing mass when viewed from the dwelling or garden to the neighbour at No. 24 Parsonage Way or a (ii) result in an unacceptable loss of light or (iii) an unacceptable loss of privacy to the dwelling and garden of that property.

82. An objection was received pointing out that the plan marked "section A" as originally submitted was incorrectly drawn. Please see Appendix 3 for a copy of this objection. As a result of that objection, the section plan has been corrected in terms of its scale. Officers have visited the site including No. 24 Parsonage Way and assessed the application in the light of that site visit noting that part of the dwelling to No. 24 Parsonage Way is not shown on the section plan.

83. Notwithstanding the criticisms set out in the objection, officers remain of the view that the development will not result in unacceptable levels of overlooking, loss of privacy or harm to neighbouring amenity.

84. Officers have been mindful of the history of this site and to assist have produced the following tables to set out what the respective plans shown in respect of the relationship to no 24 Parsonage Way:.

Reference	Distance from first floor habitable room windows in development to boundary with No. 24 Parsonage Way	Distance from first floor habitable room windows in development to nearest habitable room window No. 24 Parsonage Way
S/2109/15/OL Refused Plot 1 Plot 2 Plot 3 Plot 4 Plot 5 Plot 6	15m 16m 17m 16.5m 11m 9.5m	21m (ground floor conservatory) 20m (ground floor dining) 20m (ground floor dining) 21.5m (ground floor dining) 26.5m (ground floor dining) 30.5m (ground floor dining)
S/0623/16/OL Approved Plot 1 Plot 2	18m 19m	25 min (ground floor conservatory) 25m min (ground floor conservatory)

Plot 3 Plot 4 Plot 5 Plot 6 Plot 7	21m 23m 19.5m 15m 15.5m	25m min (ground floor dining) 25m min (ground floor dining) 25 min (ground floor dining) 25m min (ground floor dining) 25m min (ground floor dining)
S/3184/17/FL Refused Plot 1 Plot 2 Plot 3 Plot 4 Plot 5 Plot 6	No first floor windows serving habitable rooms in development Application refused on distance of 9 metres from first floor window of No. 24 Parsonage Way to boundary	No first floor windows serving habitable rooms in development Application refused on distance of 20 metres from first floor window of No. 24 Parsonage Way to patio area of new dwellings
S/0793/18/FL Current Application Plot 1 Plot 2 Plot 3 Plot 4 Plot 5 Plot 6 Plot 7	20.5m 19.8m 19.8m 19m 16.5m 16m 10.5m	27m (ground floor conservatory) 24m (ground floor dining) 23m (ground floor dining) 22m (ground floor dining) 21.5m (ground floor dining) 24.5m (ground floor dining) 30m (ground floor dining) NB a number of these are at oblique angles
Guidance set out in District Design Guide SPD	To prevent the overlooking of habitable rooms to rear of residential properties and gardens; it is preferable that a minimum distance of 15 m is provided between the windows and the property boundary.	For two storey residential properties, a minimum distance of 25m should be provided between rear or side building faces containing habitable rooms; which should be increased to 30m for three storey residential properties. Where the opposing alignment of facing windows is significantly offset, these distances may be slightly reduced. Where blank walls are proposed opposite the windows to habitable rooms, this distance can be reduced further to 12m between the wall and any neighbouring windows that are directly opposite.

85. The dwellings would be orientated to the south. With regards to the distance between windows and boundary wall, all exceed the guidance set out on the design guide (15 metres) apart from one which is 10.5 metres off the boundary with No. 24 Parsonage Way.
86. The first floor windows of the new dwellings would be sited 20.5 metres from the decked area, 20 metres from the garden area between the conservatory and boundary and between 10.5 and 16 metres from the garden area to the side of No. 24 Parsonage Way. The previous minimum distance of 13 metres was quoted in error. However, it should be noted that the distance of 10.5 metres is at an oblique angle to the very end part of the garden to that property. These relationships are, on balance considered acceptable.
87. With regards to window to rear distances where the design guide looks to achieve 25metres, the first floor windows of the new dwellings would be sited 25 metres from the conservatory attached to the rear elevation and 29 metres from the first floor bedroom window in the rear elevation of No. 24 Parsonage Way. It is the relationship with the dining room window where the scheme does not meet this 25 metres guidance. As the table sets out above the distance varies from 21.5- 27m. Officers have been mindful of not only the advice set out in the Design Guide but also the specific characteristics of the site and surroundings such as the distance between the windows, angle of view, angle of the existing dwelling, boundary fence and

levels. It is not considered that this relationship is not sufficient to warrant refusal.

88. A condition would be attached to any consent, as agreed at the previous committee meeting, to remove permitted development rights for extensions and roof extensions on all plots in order to safeguard the amenities of neighbours.

No. 31 Parsonage Way

89. The development is not considered to result in an unduly overbearing mass when viewed from the dwelling or garden of the neighbour at No. 31 Parsonage Way, or an unacceptable loss of light or privacy to the garden of that property. It would also not lead to significant overshadowing as there is an existing large tree.
90. The dwellings would be situated a distance of 11 metres off the boundary with the secondary part of the garden to No. 31 Parsonage Way away from the main house and would be screened by the existing tree, summerhouse and play equipment.

4 Kinsey Place

91. The development is not considered to result in an unduly overbearing mass when viewed from the dwelling or garden of the neighbour at No. 4 Kinsey Place, or a significant loss of light, privacy or unacceptable level of noise, disturbance and pollution to the dwelling and garden of that property.
92. The dwelling on Plot 7 would be would project approximately 1.5 metres beyond the rear elevation of No. 4 Kinsey Place and be orientated to the west of that property. This would not result in the building obstructing the 45 degree angle of view from the windows or a significant mass of wall beyond the rear elevation that would lead to an unduly overbearing mass when view from, or significant loss of light to, the rear garden area of that property.
93. The dwelling on Plot 7 would be located close to the boundary with No. 4 Kinsey Place that has a blank side elevation beyond.
94. One parking space to Plot 7 would be located adjacent to the boundary with the garden to No. 4 Kinsey Place. This is not considered to result in an unacceptable increase in the level of noise, disturbance and pollution given that it would be screened by a boundary fence.

Kinsey Place

95. The distance between Plot 7 and the dwellings in Kinsey Place would be 26 metres that is considered satisfactory.

New Dwellings

96. The first and second floor windows in the rear elevation of the existing dwelling at No. 24 Parsonage Way are not considered to adversely affect the occupiers of the new dwellings through a loss of privacy to an unacceptable level given that they would be situated a distance of at least 25 metres to the private garden areas immediately to the rear of the dwellings.

All Neighbours

97. The loss of the hedging on the site is not considered to result in an unacceptable

loss of privacy to neighbours as the relationship has been considered without such hedging.

98. A condition would be attached to any consent to control the hours of use of power operated machinery, noisy works and construction related deliveries to safeguard the amenities of neighbours.
99. The windows to the front elevation of Plot 1 would be located a distance of 40 metres and a very oblique angle and screened to some extent from the play area to the front of Cathodean Centre. This relationship is considered acceptable.
100. The proposal would therefore comply with Policy DP/3 of the LDF.

Trees/ Landscaping

101. The site comprises Cedar and Pine trees close to the southern boundary that are protected by a Tree Preservation Order and a hedge along the southern boundary with Horseheath Road. There is also a Beech tree outside of the site but close to the northern boundary that is protected by a Tree Preservation Order.
102. The proposal would result in the retention and protection of these important landscape features that contribute to the visual amenity of the area. Although the buildings would not encroach into the Root Protection Areas of the trees, some works such as the road and hard surface would be very close to the edge of the Root Protection Areas. Whilst the hard surfaces are acceptable as they would be of limited depth construction, a condition is required to be attached to any consent agree a detailed Arboricultural Method Statement and Tree Protection Strategy.
103. The revised design of Plot 7 would result in the building being sited approximately 9 metres from the edge of the canopy of the Beech tree subject to a Tree Preservation Order and is not considered to have a greater impact upon the tree.
104. The birch trees proposed along the northern boundary of the site are not agreed at this time as any landscaping would need to be agreed through a condition of any consent.
105. The proposal would therefore comply with Policy NE/6 of the LDF.

Biodiversity

106. The existing existing dwelling on the site has been subject to an initial survey and evening emergence surveys to determine whether it provides a wildlife habitat for bats or birds.
107. Some droppings of long eared bats were found within the roofspace of the house that confirms the building is used by bats. However, no bats were found inside the building. Recordings and observations of Common Pipistrelle bats, Serotine bats and Brown long eared bats were made during the evening emergence survey but these were not considered to have emerged from the house and were likely to have been roosting elsewhere off site.
108. It is considered that the existing dwelling is used as a day roosting site and/or a night roosting site by Brown Long eared bats. The demolition of the dwelling may result in the disturbance of bats and the loss of a roosting site. Therefore, appropriate bat mitigation and compensation measures are required to ensure that the proposal

would not result in the loss of any important wildlife habitats.

109. The report recommends that a bat license is obtained as bats are protected by law. In addition, immediately prior to the demolition of the building, a licensed ecologist must inspect the roof space of the building for the presence of bats. A soft demolition should take place with a licensed ecologist present. The new development should provide replacement bat roosting sites by leaving small gaps under ridge or hip tiles on the new buildings and through the incorporation of bat boxes to the buildings.
110. A starling nest was found within the south east end of the existing dwelling and several shrubs and trees on the site were noted as suitable nesting habitats.
111. The report recommends that to avoid disturbance to nesting birds, a check should be made for the presence of any nesting birds. If these are found, the demolition of the dwelling and any works to remove vegetation should not be carried out during the bird nesting season March to August (inclusive).
112. The new development should incorporate bird boxes to compensate for the loss of the existing nesting site.
113. The mitigation of the lost habitats and ecological enhancement measures would be subject to a condition of any consent.
114. The development would therefore comply with Policy NE/6 of the LDF.

Highway Safety and Parking

115. The proposal would result in an increase in traffic generation. However, this is not considered adversely affect the capacity and functioning of the public highway and be detrimental to highway safety.
116. The design of the access is acceptable and would accord with Local Highways Authority standards in terms of its width and visibility splays.
117. Conditions would be attached to any consent to ensure that the access is constructed from bound material and falls away from the highway to ensure that it would Local Highway Authority standards.
118. The development is not considered to obstruct the visibility splay for vehicles that exit the access to the car park as this is mainly on highway land.
119. A condition is not considered necessary in relation to the adoption of the road as this is a highway matter.
120. There is no requirement for refuse vehicles to turn on site as a bin collection point has been provided close to Horseheath Road so they do not have to enter the development.
121. The width of the road would measure 5 metres and be able to accommodate emergency vehicles.
122. Two parking spaces would be provided for each dwelling that has three or more bedrooms although it should be noted that one spaces for Plots 5 and 6 would be allocated parking opposite rather than on-site. One parking space would be provided for each two bedroom dwelling. Two visitor parking spaces would be provided. This

would result in a total of 13 parking spaces for 7 dwellings. This is considered satisfactory as the District Council's parking standards require an average of 1.5 spaces per dwelling and 0.25 visitor spaces per dwelling.

123. One secure and undercover cycle parking space within a garden shed would be provided for each dwelling in accordance with the cycle parking standards.
124. The proposal is therefore considered to comply with Policies DP/3 and TR/2 of the LDF.

Flood Risk

125. The site is situated within Flood Zone 1 (low risk). The scheme proposes discharge of surface water via infiltration methods such as soakaways and an acco drain. This is considered acceptable and would not increase the risk of flooding to the site and surrounding area providing a condition is attached to any consent to agree precise details.
126. The development would therefore accord with Policy NE/11 of the LDF.

Other Matters

127. The site is located 140 metres from the boundary of the conservation area and 60 metres from the nearest listed building at No. 150 High Street. The development is not considered to result in a visually dominant development that would harm the setting of these heritage assets given the proximity of existing modern development, screening and distances. The proposal would therefore accord with Policies CH/4 and CH/5 of the LDF.
128. A condition has been requested in relation to an investigation into contamination. However, previous comments in relation to application S/3184/17/FL did not require a condition in relation to an investigation but only for remediation for any contamination found on site during the development. An investigation is not considered necessary given the existing residential use of the site but a condition would be attached to any consent in relation to contamination found during development.
129. A condition would be attached to any consent in relation to surface water and foul drainage to ensure that an appropriate method is agreed.

Conclusion

130. Having regard to applicable national and local planning policies, the recent Court of Appeal decision and having taken all relevant material considerations into account, it is recommended that planning permission should be granted in this instance.

Recommendation

131. Approval subject to:

Conditions and Informatives
132. Planning conditions and Informatives as set out below, with the final wording of any amendments to these to be agreed in consultation with the Chair and Vice Chair prior to the issuing of planning permission:

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 1859/02 (Location Plan), 1859/31 Revision B (Site Plan), 1859/20 (Plot 1 only), 1859/21 (Plots 2, 3 & 4), 1859/22 Revision A (Plots 5 & 6) and 1859/23 (Plot 7).

(Reason - To facilitate any future application to the Local Planning Authority under Section 73 of the Town and Country Planning Act 1990.)

iii) Before any works on site commence a detailed Arboricultural Method Statement and Tree Protection Strategy shall be submitted to and approved in writing by the Local Authority, including details of timing of events, protective fencing and ground protection measures. This should comply with BS5837. The tree protection measures shall be installed in accordance with the approved tree protection strategy before any works commence on site. The tree protection measures shall remain in place throughout the construction period and may only be removed following completion of all construction works.

(Reason - To protect trees which are to be retained in order to enhance the development, biodiversity and the visual amenities of the area in accordance with Policies DP/1 and NE/6 of the adopted Local Development Framework 2007.)

iv) No development shall be occupied until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. The details shall 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.)

v) 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.)

vi) All ecological measures and/or works shall be carried out in accordance with the details contained in section 8 of the Protected Species and Bat Survey (Chris Vine, July 2017) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

(Reason - To minimise disturbance, harm or potential impact upon protected species in accordance with Policies DP/1, DP/3 and NE/6 of the adopted Local Development Framework 2007 and their protection under the Wildlife and Countryside Act 1981.)

vii) Prior to the first occupation of the development a scheme of biodiversity enhancement shall be supplied to the local planning authority for its written approval. The approved scheme shall be fully implemented within an agreed timescale unless otherwise agreed in writing.

(Reason - To enhance ecological interests in accordance with Policies DP/1, DP/3 and NE/6 of the adopted Local Development Framework 2007.)

viii) Prior to the first occupation of the development, vehicular visibility splays shall be provided each side of the vehicular access in full accordance with the details shown on drawing number 1859/31 Revision B. The splays shall thereafter be maintained free from any obstruction exceeding 0.6m above the level of the adjacent highway carriageway.

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

ix) The proposed access shall be constructed so that it falls and levels are such that no private water from the site drains across or onto the adopted public highway.

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

x) The proposed access shall be constructed using a bound material to prevent debris spreading onto the adopted public highway.

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

xi) No demolition or construction works shall commence on site until a traffic management plan has been agreed with the Local Planning Authority in consultation with the Highway Authority. The principle areas of concern that should be addressed are:

(i) Movements and control of muck away lorries (all loading and unloading shall be undertaken off the adopted highway)

(ii) Contractor parking, for both phases all such parking shall be within the curtilage of the site and not on the street.

(iii) Movements and control of all deliveries (all loading and unloading shall be undertaken off the adopted public highway).

(iv) Control of dust, mud and debris, in relationship to the functioning of the adopted public highway.

The 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.)

xii) The vehicle parking and turning spaces shown on drawing number 1859/31 Revision B shall be provided prior to the occupation of any part of the development and thereafter retained.

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

xiii) The development hereby permitted shall not be occupied until detailed drawings of the cycle stores have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

(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.)

xiv) No development shall commence until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the Local Planning Authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in The National Planning Policy Framework, associated Planning Policy Guidance and the Non statutory technical standards for sustainable drainage systems. The results of the assessment provided to the local planning authority. The system should be designed such that there is no surcharging for a 1 in 30 year event and no internal property flooding for a 1 in 100 year event + 40% allowance for climate change. The submitted details shall:

i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharge rate and volume from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; and provide a plan indicating flood exceedance routes, both on and off site in the event of a blockage or rainfall event that exceeds the designed capacity of the system.

ii. provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. Including: details of land ownership; maintenance responsibilities; a description of system; the identification of individual assets, services and access requirements; details of routine and periodic maintenance activities.

The surface water drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan for the lifetime of the development.

(Reason - To ensure a satisfactory method of surface water drainage and to prevent the increased risk of flooding in accordance with Policies DP/1 and NE/11 of the adopted Local Development Framework 2007.)

xv) The development hereby permitted shall not be occupied until foul water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by 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.)

xvi) If during the development contamination not previously identified is found to be present at the site, such as putrescible waste, visual or physical evidence of contamination of fuels/oils, backfill or asbestos containing materials, then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved to the satisfaction of 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).

xvii) No site or plant machinery shall be operated and no construction related deliveries taken or dispatched from the site except between 0800 hours and 1800

hours Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays, and not at any time on Sundays and Bank Holidays.
(Reason - To minimise noise disturbance for adjoining residents in accordance with Policy NE/15 of the adopted Local Development Framework 2007.)

xvi) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development within Classes A and B of Part 1 of Schedule 2 of the Order shall take place on all plots unless expressly authorised by planning permission granted by the Local Planning Authority in that behalf.
(Reason - To safeguard the amenities of neighbours in accordance with Policy DP/3 of the adopted Local Development Framework 2007.)

Informatives

- i) 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 Local Highway Authority for such works.
- ii) There shall be no burning of any waste or other materials on the site, without prior consent from the environmental health department.
- iii) The applicant should take all relevant precautions to minimise the potential for disturbance to neighbouring residents in terms of noise and dust during the construction phases of development. This should include the use of water suppression for any stone or brick cutting and advising neighbours in advance of any particularly noisy works. The granting of this planning permission does not indemnify against statutory nuisance action being taken should substantiated noise or dust complaints be received. For further information please contact the Environmental Health Service.
- iv) Should driven pile foundations be proposed, then before works commence, a statement of the method for construction of these foundations shall be submitted and agreed by the District Environmental Health Officer so that noise and vibration can be controlled.
- v) Before the existing property is demolished, a Demolition Notice will be required from the Building Control section of the council's planning department establishing the way in which the property will be dismantled, including any asbestos present, the removal of waste, minimisation of dust, capping of drains and establishing hours of working.

Background Papers:

The following list contains links to the documents on the Council's website and / or an indication as to where hard copies can be inspected.

- South Cambridgeshire Local Development Framework Development Control Policies DPD 2007
- South Cambridgeshire Local Development Framework Supplementary Planning Documents (SPD's)
- South Cambridgeshire Local Plan Submission 2014
- Planning File References S/0793/18/FL, S/3184/17/FL, S/0623/16/OL, S/2019/15/OL, S/2504/14/OL and S/2112/07/F

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- Appendix 1 Linton Parish Council Comments (most recent comments)
- Appendix 2 Linton Parish Council Comments (revised plan comments)
- Appendix 3 Linton Parish Council Comments (original comments)
- Appendix 4 Comments from 24 Parsonage Way
- Appendix 5 and 6 Representations on behalf on 24 Parsonage Way.