

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

1st April 2009

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

S/0198/09/F - IMPINGTON

**Variation of Condition 18 of Planning Permission S/1017/06/F
Mereway Farm, Milton Road for Mr S Wrench**

Recommendation: Approval

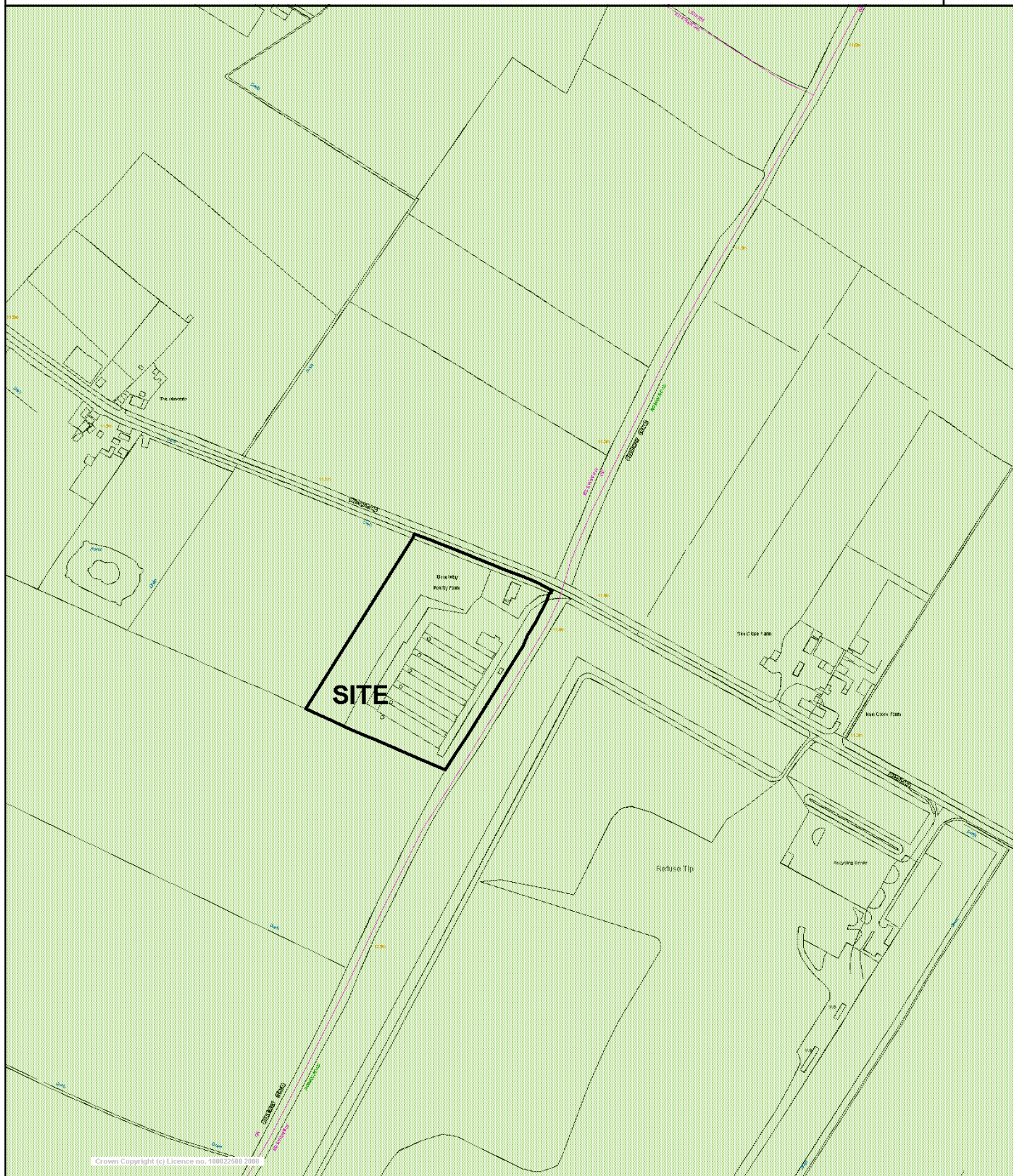
Date for Determination: 14th May 2009 (Major Application)

Notes:

This Application has been reported to the Planning Committee as Impington Parish Council has recommended that the application be refused, contrary to Officer recommendation.

Site and Proposal

1. The application site comprises of approximately 2.8 hectares of land, which was formally an agricultural poultry farm consisting of three large egg production sheds accessed via the Milton Road. The site also contains an agricultural workers dwelling comprising of a single detached bungalow. The site is outside of the Impington Development Framework and is within the Cambridge Green Belt. The site has since been developed under the approval of Planning Application S/1017/06/F and the egg production sheds have been removed in accordance with the approved details of this consent. At present only one of the proposed industrial units has been erected. The application site as approved has since been sold to another development company with the bungalow and land to the west of the egg production sheds being kept in separate ownership.
2. The above-mentioned consent was conditional with condition 18 requiring the applicants to enter into a Section 106 Legal Agreement to ensure that the following provision was implemented:
 - (a) Foot/cycle way from the application site eastwards to link with the existing footway, which terminates at the Country Landfill site.
 - (b) Payment of a financial contribution to the Northern Corridor Area Transport Plan.
 - (c) The abrogation of permitted development rights for the erection of agricultural buildings on the land to the west of the application site also in the applicant's ownership.
3. The application, received 12th February 2009, seeks to vary the above section c) of condition 18 of Planning Permission S/1017/06/F to remove the abrogation of agricultural permitted development rights for the land to the west of the developed site. The reason for this is that the current owners of the site do not own the land in question and cannot enter into a binding undertaking in relation to this land.



Crown Copyright (c) Licence no. 100022548 2008



Reproduced from the 2008 Ordnance Survey mapping with the permission of the controller of Her Majesty's stationary office (c) Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

Scale 1/5000 Date 16/3/2009

Centre = 546299 E 263401 N

April Planning Committee

Planning History

4. Planning Application **S/1017/06/F** was approved for the change of use of former egg production buildings, including alterations, extensions for industrial uses (B1(c) Light Industrial & B8 Storage & Distribution together with a new vehicular access and servicing.
5. Planning Application **S/1456/08/F** was refused for the removal of condition 11 of Planning Application S/1017/06/F.
6. Planning Application **S/0478/07/F** was refused for the removal of condition 18 of planning application S/1017/06/F.
7. Planning Application **S/2184/06/F** was refused for the erection of buildings for B1(c) and B8 (Storage & Distribution).
8. Planning Application **S/0728/06/F** was refused for the redevelopment of former egg production buildings for industrial B1(c) and B8 together with access, car parking and servicing.

Planning Policy

9. South Cambridgeshire Local Development Framework (LDF) Development Control Policies adopted January 2007:

DP/1 (Sustainable Development), **DP/2** (Design of New development), **DP/3** (Development Criteria), **DP/7** (Development Frameworks), **GB/1** (Green Belt), **TR/1** (Planning for More Sustainable Travel) and **TR/2** (Car and Cycle Parking Standards)

Consultation

10. **Impington Parish Council** – recommends Refusal as it strongly feels that this development should be limited and does not see sufficient protection being offered by the removal of sub 3 of Condition 18 given the statement that the land has been separated, indicating it may still be in the same or related ownership.
11. **Milton Parish Council** – No recommendation.

Representations

12. None received

Planning Comments – Key Issues

13. The current applicants of this planning application do not own the land to the west of the development site nor do they own the land comprising of a bungalow to the north of the development site. Both are still under the ownership of the original applicants when permission was approved in 2006 “Walker Commercial”. As a consequence the applicant is unable to enter into a legal agreement for the removal of agricultural permitted development rights as they are not the legal land owner. Work has commenced on site and the applicant is working with officers to ensure that the remaining mechanisms of condition 18 will be implemented by the completion of a Section 106 Agreement in co-operation with the Local Highway Authority.

14. In light of the above the material consideration in the determination of this application is to ascertain the harm that would occur upon the Green Belt should the agricultural planning permitted development rights remain in tact for the land to the west of the development site.
15. Part 6 of the Town and Country Planning (General Permitted Development) Order (GPDO) 1995 (as amended October 2008) relates to agricultural buildings and operations. This legislation allows works for the erection, extension or alterations of buildings, or any excavation or engineering operations upon agricultural land of more than or less than 5 hectares, subject to a number of limiting criteria. Anyone wishing to carry out works on units of 5 hectares or more covered by Part 6 of the GPDO must apply to the Local Authority in advance for the determination as to whether prior approval of certain details, primarily siting, design and external appearance of the development is required.
16. Planning Circular 11/95 - "The Use of Conditions in Planning Permissions" stipulates the general criteria for the validity of planning conditions. It takes the view that conditions should not be imposed unless they are both necessary and effective, and do not place unjustifiable burdens on applicants. As a matter of policy, conditions should only be imposed where they satisfy the following criteria:
 - (a) Necessary;
 - (b) Relevant to planning;
 - (c) Relevant to the development to be permitted;
 - (d) Enforceable;
 - (e) Precise; and
 - (f) Reasonable in all other respects.
17. Paragraph 87 of Circular 11/95 states that "Save in exceptional circumstances, conditions should not be imposed which restrict either permitted development rights granted by development orders The Secretaries of State would regard such conditions as unreasonable unless there were clear evidence..... that there were no other forms of control, and that the condition would serve a clear planning purpose".
18. Notwithstanding Paragraph 13 of the Circular, which states that "Permission cannot be granted subject to a condition that the applicant enters into a planning obligation under Section 106 of the Act or an agreement under other powers", the applicant is anxious to agree and discharge the remaining transport requirements of condition 18.
19. In light of the above, I am of the opinion that the GPDO affords sufficient control of any possible future agricultural development on the remaining 3.2 hectares of land to the west of the development site. Any proposed development not covered by this section of the legislation would require planning permission and would therefore be controllable at the application stage. As a consequence, section c) of Condition 18 is in my view not necessary, precise or reasonable.
20. Furthermore, the removal of section c) of Condition 18 would not result in harm to the character and openness of the Green Belt, as any potential agricultural development covered under this section of the GPDO is defined as appropriate within the Green Belt as stated within Planning Policy Guidance Note 2 (PPG2).
21. At this present time I can confirm that of the 13 pre-commencement or occupation conditions set within the approval of planning application S/1017/06/F all but 5 have been agreed in writing. The outstanding issues are currently the subject of

consultation with the relevant statutory consultees. The conditions, which still require final agreement, are:

- (a) Condition 3 - Surface Water Drainage;
- (b) Condition 4 - Foul Water Drainage;
- (c) Condition 14 - Biodiversity Enhancement;
- (d) Condition 17 - Green Travel Plan;
- (e) Condition 18 - S106 Legal Agreement.

22. The Green Travel Plan and draft S106 legal agreement currently sit with the Local Highway Authority for comment. The matters of foul water and surface water drainage have been agreed on site post development with certificates issued by the Environment Agency. I am awaiting confirmation that this is sufficient in order to satisfy Condition 3 & 4. A scheme for biodiversity enhancement is to be submitted in due course.

Recommendation

23. Approve.

Conditions as per planning permission S/1017/06/F, as modified to take account of details approved by conditions.

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

- South Cambridgeshire Local Development Framework Development Control Policies (adopted July 2007)
- Circular 11/95 - Use of conditions in planning permission;
- Planning Policy Guidance Note 2 – Green Belts;
- General Permitted Development Order 1995;

Contact Officer: Mike Jones – Senior Planning Officer
Telephone: (01954) 713253