

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

7th October 2009

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

S/1048/09/F - COTTENHAM

Alterations and Change of Use of Existing Dwelling to Form 4 Holiday Lets & Formation of Replacement Access (Part Retrospective) at The Lakes, Twenty Pence Road for Mrs Lorraine Ryman

Recommendation: Delegated: Approval

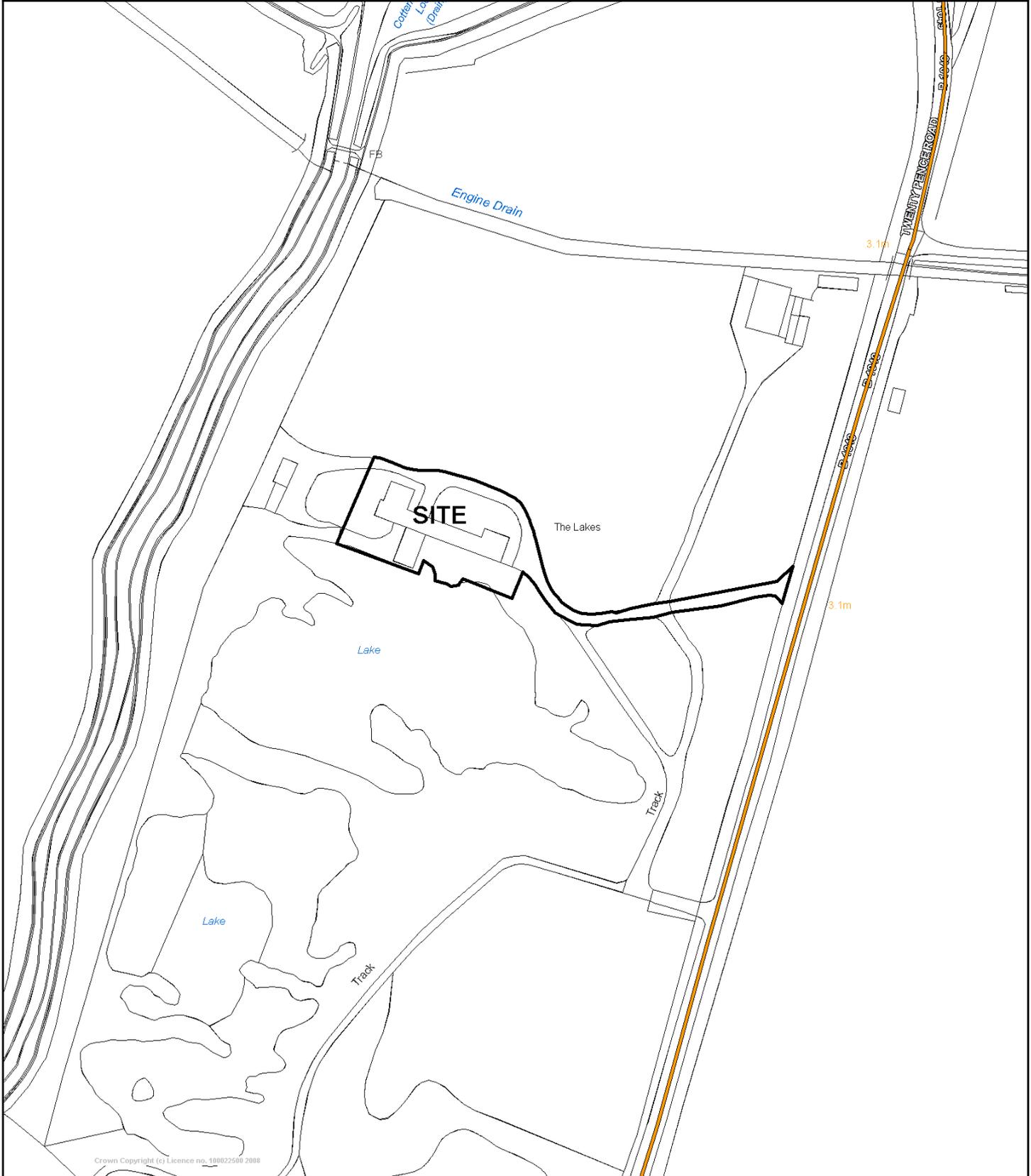
Date for Determination: 7th October 2009

Notes:

This Application has been reported to Planning Committee for determination because the Officer recommendation of approval conflicts with the response from the Parish Council, and at the request of District Councillor Edwards

Site and Proposal

1. The site lies within open countryside between the villages of Cottenham, approximately 3 kilometres to the south, and Wilburton, around 4 kilometres to the north. The site is occupied by a former large 9-bedroom dwelling known as 'The Lakes'. Parts of the original dwelling have been demolished, so that the structure now comprises four detached buildings. The physical alterations to the original dwelling are unauthorised, and it appears that at least three of the four units are being occupied as residential dwellings. The buildings are sited approximately 110 metres to the west of Twenty Pence Road and are well screened by a mature hedgerow and trees forming the eastern boundary of the site. On the south side of the detached units are a number of lakes. Vehicular access to the premises is obtained via Twenty Pence Road (the B1049), a 60mph road. The existing access is 124 metres away from a bend to the south and 316 metres from a bend to the north.
2. The full application, received on 21st July 2009, seeks retrospective consent for the physical works and alterations that have been carried out to the original dwelling, together with the change of use of the dwelling to form four detached holiday let units. In addition, the application proposes a replacement access onto the Twenty Pence Road, in a position approximately 90 metres to the north of the existing access point. The proposed new access would be 6 metres wide for a distance of 15 metres back from the highway boundary, and would reduce to a width of 4 metres thereafter. 2.4 metre x 215 metre vehicle visibility splays would be provided in both directions. Both the existing access to the south, together with a field access further to the north, would be permanently closed off and hedging planted in the gaps.
3. The application has been accompanied by: a Design and Access Statement; Transport Statement; Ecological Assessment; and Flood Risk Assessment.



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Scale 1/2000 Date 21/9/2009

Centre = 547872 E 270798 N

October Planning Committee 2009

Planning History

4. **S/1979/08/F** - Application for alterations and change of use of existing dwelling to form 4 holiday lets, and formation of replacement access refused for the following reason:

“The site lies within a designated County Wildlife Site. In addition, contrary to the information contained within Section 14 of the application form, priority/protected species are known to be present on the site. In the absence of a formal biodiversity management plan, the application fails to satisfactorily demonstrate how the biodiversity value of the site will be sustained for the benefit of visitors. Consequently, the proposal is contrary to the South Cambridgeshire Local Development Framework 2007: Policy NE/7, which states that planning permission will not be given for proposals that may have an unacceptable adverse impact on a site of biodiversity importance, and Policy NE/6, which states that new development should aim to maintain, enhance, restore or add to biodiversity, and requires the potential impact of development to be assessed where it is believed a proposal may affect a protected or priority species or habitat.”

5. **S/0919/08/F** - Application for new access approximately 80 metres to the north of the existing access, measuring 5m wide for 15m back from the highway and incorporating 2.4m x 215m visibility splays, was withdrawn at the applicant's request.

6. **S/0386/08/F** - Application for part demolition and conversion of house to form 4 dwellings (retrospective) refused for the following reasons:

- (a) Increase in dwellings in an unsustainable location;
- (b) Development would lead to an increase in traffic from an inadequate access, resulting in highway safety problems;
- (c) Failure to comply with Housing Mix Policy HG/2;
- (d) Poor relationship between the dwellings resulting in neighbour amenity problems;
- (e) No affordable housing or public open space contributions.

An appeal was submitted but was subsequently withdrawn.

7. **S/1502/07/F** - Part demolition and conversion of house to 4 dwellings – application withdrawn.

8. **S/1535/06/O** and **S/1536/06/O** - Two separate outline applications for three residential units on land to the north of The Lakes refused for the following reasons:

- (a) Contrary to settlement policy;
- (b) Visual impact within landscape;
- (c) No Flood Risk Assessment;
- (d) Access exceeds standards necessary for the development proposed;
- (e) No regard to impact on local wildlife sites;
- (f) Combined impact of the two applications would lead to demand on educational facilities.

9. **S/1534/06/F** - Application for relocation of highway access refused as the access design exceeded that necessary for a dwelling, and the proposal sought to retain the existing access so that two access points would serve the site. This would result in the removal of a significant length of hedgerow to the detriment of the rural character of the area.

10. **S/0099/06/LDC** - Lawful Development Certificate for existing use as 3 dwellings refused on the basis of insufficient evidence to demonstrate lawful use.
11. **S/1591/76/F** - Extension to lake - approved
12. **C/0727/73/F** - Demolition of existing dwellings and erection of new dwelling and garage.
13. **C/1169/72/O** - Demolition of existing dwelling and erection of new dwelling and garages.

Planning Policy

14. **Planning Policy Statement 7** - Sustainable Development in Rural Areas
15. **East of England Plan 2008:**

SS1 - Achieving Sustainable Development
E6 - Tourism

16. **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/7 - Development Frameworks
ET/10 - Tourist Facilities and Visitor Accommodation
NE/6 - Biodiversity
NE/7 - Sites of Biodiversity or Geological Importance
NE/11 - Flood Risk
TR/1 - Planning for More Sustainable Travel
TR/2 - Car and Cycle Parking Standards

17. Department of Communities and Local Government - Good Practice Guide on Planning for Tourism – 2006
18. **Circular 05/2005 – Planning Obligations** – states that planning obligations must be relevant to planning, necessary, directly related to the proposed development, fairly and reasonably related in scale and kind, and reasonable in all other respect.
19. **Circular 11/95: The Use of Conditions in Planning Permissions** – states that conditions should be necessary, relevant to planning, relevant to the development permitted, enforceable, precise and reasonable in all other respects.

Consultations

20. **Cottenham Parish Council** recommends refusal, stating:

“Cottenham Parish Council protests the need to determine ‘yet another’ planning application for this property and recommends refusal in the strongest possible terms.

As a Council we append responses to earlier applications and ask that you pay particular attention to the statements in those dated August 2007; March 2008 and February 2009. We also include a ten year summary of planning activity at this venue

and, as all documents and material considerations remain relevant, we ask that they be read in conjunction with this letter of recommended refusal.

The planning position speaks for itself: eight previous (to this) applications over the last three years, all either refused or withdrawn, together with a history of unlawful development to wit: "*the 9 bedroom house (see Introduction 1.2 to the Transport Assessment)*" which has evolved (unlawfully) since 1973. This persistence suggests to this Council a campaign of attrition for as we see it:

- (a) The reasons for the previous refusals still apply - what has changed? - nothing has changed save the nature of 'this month's planning request!
- (b) The 'house' once convertible into separately owned residences, then rentable flats, now capable of conversion to 4 holiday lets remains the same, unlawfully developed abode which, were it on a Travellers' site, would be a target for demolition
- (c) There appear to be 'financial considerations' at work which are not material in planning law
- (d) This application is just a stepping stone to future unrestricted residential permission and the use of the LPA's policies on "Tourism" is but a ruse.

Documents accompanying the current application deserve comment:

- a) Transport Assessment.
 - 1.2 - the 9 bedroom house is referred to as if "approved/accepted" - it is not, nor has it been, and should be in the opinion of Cottenham Parish Council the subject (for SCDC) of demolition
 - 2.1 - the B1049 is glibly referred to as a 'local traffic route'. We assume that SCDC (the LPA) is better informed: the B1049, much to the disappointment of this Council, is designated by the County's Highways Department (for purposes of Minerals & Waste and major site (Northstowe) development) as a "Main Distributor Route" each and every form of HCV or HGV will be permitted, nay encouraged, down this road come the recovery. Allowing any additional access on to the 1049 at this location, and especially for unknowing 'visitors', would be a grave mistake.
 - 3.3 - the Lakes aid to tourism: this Council is given to believe that these 'fishing' lakes were closed to the public some 4/5 years ago because of property abuse by Gypsies & Travellers. Had the business been particularly viable it's unlikely that such a decision would have been taken thus there is no reason to conclude, in the absence of any attempt to project financial benefit from tourism, that the statements in 3.3 should carry any weight when considering this application.
 - 4.2 - arguing that traffic from 4 holiday lets will likely not exceed that from the existing 9 bedroom house has no validity being as the 9 bedroom house is unlawful and the traffic therefrom likely, hopefully, to be mitigated by the LPA.
 - 6.5 – further 'play' on the benefits derived from close access to the Old West River (R. Great Ouse) is, again, unsubstantiated. Some half-mile north on the 1049, in East Cambs, is a marina, usually quite full, and if benefit can be gained from proximity then evidence of genuine enquiry could surely be available now. This and other unsubstantiated statements can be given no weight in planning law.

- b) The Design & Access Statement quotes support from:
ET/e - support for the 'rural' economy and 'farm diversification' is hardly relevant here
ET/f - growth of tourism and new facilities: these facilities are not 'new' and already have an adverse impact on the natural environment
ET/10 - would probably qualify but for the fact that the 'property' is already in breach of SCDC rules and has been "over-developed" and "extended" to an unacceptable level thus the application is broadly disqualified by the LPA's own policy on what may be permitted.

Cottenham Parish Council sees absolutely no justification for accepting this application and, fortunately, a firm of London Planning Lawyers, from whom we sought advice, concur.

However, should South Cambridgeshire District Council conclude otherwise then this Council would expect no less than the inclusion of a Section 106 agreement per circular 05/2005.

Given the level of detail inherent in a restriction to holiday use (*for example: limitations on periods of occupancy; requirements that the units are not used as an only or principal home; restrictions on occupancy at certain times of the year [perhaps]*) coupled with the need for swift and effective enforcement action in the event of any breach; makes the use of a s.106 planning obligation most appropriate given that the 5 tests set out in circular guidance are met (*ie. relevant to planning; necessary to make the development acceptable in planning terms; directly related to the development; fairly and reasonably related in scale and kind to the development; reasonable in all other respects*).

Furthermore the applicant has already stated that a s.106 agreement, that will facilitate and regulate the development, is perfectly acceptable thus there would be no justification for overlooking our request should 'reason' fail in all other respects."

The additional documentation referred to by the Parish Council is enclosed as an appendix to this report. In summary, the August 2007 letter (in response to application reference S/1502/07/F for 4 detached dwellings) states that, since the dwelling was built in 1973, there has been an element of unauthorised, uncontrolled development of the premises. It appears that in 2006, the then owner created a self-contained flat for his daughter. The present owners were unable to substantiate their claims, as part of the Lawful Development Certificate application, that the dwelling had been split into 3 separate units. A subsequent planning application for use as 3 dwellings was also refused. Refusal of the application for 4 dwellings was recommended for the following reasons: contrary to settlement policy - no justification for more than one dwelling; and highway safety implications of intensifying the use of the access. The March 2008 letter (responding to application reference S/0386/08/F) reiterates the above concerns and also states that the fact the footprint is less than that of the original dwelling does not represent sufficient justification for the proposal. The February 2009 letter, responding to the previous holiday let application (S/1979/08/F), recommends refusal on the following grounds: contrary to policies relating to housing in the countryside and replacement dwellings (HG/6 and HG/7); no proof that holiday let use would be viable; and highway safety implications of proposed access.

21. **The Cottenham Village Design Group** states that it is generally opposed to new building on open land outside the village framework on the grounds that it is likely to disrupt the locally distinctive open character of the landscape. Although this would be an inappropriate location for new development, separation and conversion of the

existing dwelling for use as holiday accommodation does appear to be a way forward for this site. However, it is important that any conversion is completed to a high standard using matching materials as far as possible. Highway access onto this fast stretch of the B1049 is a significant road safety concern, and any revision to the existing access arrangements should consider road safety as the foremost priority. It is encouraging to see the supporting biodiversity assessment and management plan, and it is hoped the Wildlife Trust or similar body can become involved in the monitoring and management of the site. The intention to reinstate the hedge at existing access points and possibly add planting along the driveway is supported, and it is recommended that native and/or locally typical species for these areas is used.

22. **The Landscape Design Officer** raises no objections.
23. **The Trees and Landscape Officer** raised no objections to the previous application.
24. **The Ecology Officer's** comments are awaited and will be reported verbally at the Committee meeting.
25. **The Local Highways Authority** raises no objections subject to the following conditions: vehicular access to be provided before first occupation of the development; access to be constructed with adequate drainage measures; no unbound material to be used within 15 metres of the highway boundary; vehicular crossing of ditch to be constructed in accordance with previously agreed scheme; all existing accesses to be permanently closed and highway verges reinstated in accordance with a previously agreed scheme. The drawing should be amended to clearly show the 5m radii kerbs and to remove the proposed white lining.
26. **The Environment Agency** raises no objections, in principle, to the development. The site is identified as being within Flood Zone 1 (low risk), effectively a 'dry island', the surrounding area being both Flood Zones 2 and 3 (medium and high risk respectively). It is stressed that, with reference to paragraph 6.9 of the Flood Risk Assessment (which states the owners of the holiday home are registered with the Agency's Floodline), the applicant must consider a strategy to ensure that all occupants/tenants are advised of the associated flood risk at the time of rental and that clear and precise procedures are available on site for all.
27. **The Old West Internal Drainage Board** raises no objections.

Representations

28. None

Planning Comments – Key Issues

29. The previous application for 4 holiday lets was refused solely on biodiversity grounds, and this is therefore the principal issue to consider in the determination of this application. In response to serious concerns raised by Cottenham Parish Council, the following key issues are also addressed in the consideration of this application:
 - Whether use as holiday lets is appropriate in this countryside location;
 - Sustainability;
 - Highway safety and visual impact implications of access proposals;
 - Ecological issues;
 - Flood risk;
 - Neighbour amenity.

Principle of holiday lets use and sustainability issues

30. The Lakes was a 9 bedroom dwelling that has been adapted, through the demolition of former interconnecting areas, to form 4 detached buildings. The works that have been carried out to date are unlawful and do not have the benefit of any planning permission, and the history section outlines the applicant's attempts to regularise the situation and to seek an appropriate re-use for the building.
31. The Parish Council has raised serious concerns about whether the application should be entertained. In view of the history of the site, to use the buildings for residential purposes (through Lawful Development Certificates and planning applications) and for new residential development to the north, these concerns are understandable. However, the Planning Authority does have an obligation to determine applications as submitted, and each proposal must be taken at face value.
32. The previous applications have sought to alter and convert the building to form 4 detached dwellings. The site lies well outside the defined Cottenham village framework, where there is a general presumption against residential development. Policy HG/8 does give some support to the conversion of existing buildings in the countryside to residential use but only as an exception (with employment and live/work units being considered first) and subject to the development meeting sustainable development criteria. The site lies in a very isolated location, approximately 3 miles from the edge of Cottenham. Twentypence Road is a 60mph road with no pedestrian footpath and occupiers of any dwellings would clearly have to rely on the private car. The site does not lie in a sustainable location with easy access to services and facilities and is not accessible by a range of non-car travel modes. As such, the creation of residential units on this site clearly contravenes policy requirements as set out in the history section above.
33. With regards to the possibility of holiday let accommodation, Local Development Framework Policy ET/10 states:

“Outside development frameworks, development to provide overnight visitor accommodation, holiday accommodation, public houses and restaurants will only be permitted by change of use/conversion, or through appropriate replacement of buildings not requiring large extension, or by appropriately modest extensions to existing facilities.

Development of holiday accommodation will be limited to short-term holiday lets through conditions or legal agreement. Permitted development rights may be removed in the interests of amenity. “
34. Planning Policy Statement 7 encourages the conversion of rural buildings to holiday accommodation where this accords with sustainable development objectives. Whilst the proposal to convert the building to dwellings (S/0386/08/F) was partly refused on sustainability grounds, the DCLG's Good Practice Guide on Planning for Tourism states that planners should seek to ensure that new tourism developments are as sustainable as possible in transport terms, but will need to recognise that the wide variety of developments that are inherent in the tourism industry means that there are some developments that are car dependent. In cases where access by sustainable modes of transport is difficult, it states that the traffic generated by small scale schemes is likely to be fairly limited and additional traffic movements are therefore unlikely to be a reason for refusal for otherwise suitable tourism developments.

35. The application has been accompanied by a transport statement, which notes that two bus routes pass the site, but that there are no bus stops in the vicinity of the property. With regards to the traffic generation associated with holiday lets use, the transport statement estimates around 16-20 daily trips for a single 9-bedroom dwelling, and 16 trips per day for the 4 holiday let units, with only a small percentage of the latter trips being expected during peak traffic hours. Taken over the course of the whole year, it is highly unlikely that a holiday let use would result in the same frequency and intensity of vehicle movements as either a single 9 bedroom residence or 4 detached smaller dwellings. In light of this, together with the advice set out in the aforementioned good practice guide, it is considered that the development is on a sufficiently small scale to avoid conflict with sustainable development objectives. The principle of the proposed use is therefore considered to be acceptable.
36. It would be absolutely essential, as stipulated within Policy ET/10, that any approval be subject to the use of the units as holiday let accommodation only, and the applicant's agent has indicated in the supporting Design and Access Statement that the applicant would be willing to enter into a Unilateral Undertaking or Bilateral Agreement under Section 106 to this effect. This legal agreement would need to ensure that the premises are only used by visitors, in order to avoid occupation by permanent households (which would be contrary to policies relating to development in the countryside, sustainability principles, affordable housing, mix, open space and residential amenity). In addition, as granting any consent on this site is no guarantee of implementation, it would be essential to instigate enforcement action to ensure the cessation of any existing multiple residential use of the buildings.

Access proposals - highway safety and visual impact implications

37. In the previously refused application for 4 dwellings (S/0386/08/F), the proposal sought to utilise the existing point of vehicular access. This access is narrow and concealed. The application did not propose any improvements to the existing access and the Local Highways Authority objected on the basis that the proposal would result in an intensification in use of the access to the detriment of highway safety. A previous application for a new wider access approximately 90 metres to the north of the existing, together with the retention of the existing access, was refused as the new access dimensions exceeded that required, resulting in the removal of large section of hedge and consequent harm to the character of the area (S/1534/06/F). The current proposal seeks to provide a replacement access to the north of the current access position and also to close off the existing residential and field accesses. The new access would comprise 2.4m x 215m visibility splays, rather than the previously proposed and refused 4.5m x 215m splays. This means that only a small section of the existing hedge would need to be removed, with the remainder within part of the splay area being trimmed back. In addition, new hedgerows would be planted across the existing entrances. The proposal would therefore result in very little loss to the existing boundary hedgerows, and is not therefore considered to result in serious harm to the rural character of the area.
38. The Parish Council has expressed concerns regarding the highway safety implications of creating a new access. As stated in the application, the new access would replace two existing accesses. Any consent would need to be both conditional upon the new access being provided prior to the commencement of the use, and to the existing accesses being closed off upon the new access being brought into use. Neither the Trees and Landscape Officers nor the Local Highways Authority has raised any objections to the proposal. The visual impact and highway safety implications of the proposed development are therefore considered to be acceptable.

Ecological issues

39. The Ecology Officer objected to the previous application to use the buildings for holiday lets. The Design and Access Statement accompanying that application referred to the property's lakeside location and exploitation of the natural assets of the location. However, the application included no formal biodiversity management plan to demonstrate how the biodiversity value of the site would be sustained for the benefit of visitors. The current application includes an ecological assessment and management plan, and the Ecology Officer's comments on this will be reported verbally at the meeting.

Flood Risk

40. The application has been accompanied by a Flood Risk Assessment, and neither the Environment Agency nor the Internal Drainage Board has raised any objections to the proposal.

Neighbour Amenity

41. The refused application for 4 dwellings (S/0386/08/F) was refused partly on neighbour amenity grounds: namely overlooking of neighbouring gardens from the plot 2 rear balcony and plot 3 first floor side windows, and noise and disturbance to plots 1 and 4 arising from use of the gravelled parking area to plots 2 and 3. As the proposal is for holiday lets, as opposed to private dwellings, it is not essential to secure the same level of privacy for occupiers of the properties, and the application is therefore considered to be acceptable in this respect.

Other

42. The application for 4 dwellings (S/0386/08/F), was refused, in part, as it failed to comply with the housing mix policy (HG/2) and failed to provide affordable housing and open space contributions. As this proposal is for holiday lets, rather than permanent residential properties, the issues of mix, affordable housing and open space contributions would not be applicable in this instance.

Recommendation

43. A. Subject to the Ecology Officer being satisfied that previous concerns have been overcome, to the receipt of an amended access plan, and to the prior signing of a Section 106 Legal Agreement restricting the occupation of the units to holiday lets only, delegated powers are sought to approve the application, subject also to the following additional conditions:
1. The use hereby permitted shall commence 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. Sc5 – Landscaping
 3. Sc6 - Implementation of landscaping
 4. Before the commencement of the holiday let use, hereby permitted, the new vehicular access shown on drawing number IT875/TS/03 shall be completed in accordance with the approved drawing (Reason - In the interests of highway

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

5. Before the commencement of the holiday let use, hereby permitted, and upon the bringing into use of the new access, all of the existing accesses to the site shall be permanently and effectively closed, the ditch crossings opened up and the highway verge reinstated in accordance with a scheme which shall previously have been submitted to and approved in writing by the Local Planning Authority (Reason - In the interests of highway safety, in accordance with Policy DP/3 of the adopted Local Development Framework 2007.)
 6. Before the commencement of the holiday let use, hereby permitted, the vehicular crossing of the ditch/watercourse along the frontage of the site shall be constructed in accordance with a scheme, which shall previously have been submitted to and approved in writing by the Local Planning Authority (Reason - In the interests of highway safety, in accordance with Policy DP/3 of the adopted Local Development Framework 2007.)
 7. Before the commencement of the holiday let use, hereby permitted, details of surface water drainage for the new access shall be submitted to and approved in writing by the Local Planning Authority (Reason - To prevent surface water discharging to the highway, in the interests of highway safety, in accordance with Policy DP/3 of the adopted Local Development Framework 2007.)
 8. No unbound material shall be used in the surface finish of the driveway within 15 metres of the highway boundary of the site (Reason - In the interests of highway safety, in accordance with Policy DP/3 of the adopted Local Development Framework 2007.)
44. In the event that the Section 106 Agreement is not completed, the application be refused.
45. B. That an enforcement notice be served to seek the cessation of the use for four dwellings with a compliance period of six months.

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

Planning Policy Statement 7 - Sustainable Development in Rural Areas;
East of England Plan 2008;
South Cambridgeshire Local Development Framework (LDF) 2007;
Department of Communities and Local Government - Good Practice Guide on Planning for Tourism 2006;
Circular 05/2005 – Planning obligations
Circular 11/1995 – The use of conditions in planning permissions
Planning application references S/1048/09/F; S/1979/08/F; S/0919/08/F; S/0386/08/F;
S/1502/07/F; S/1536/06/O; S/1535/06/O; S/1534/06/F; S/0099/06/LDC; S/1591/76/F;
C/0727/73/D; C/1169/72/O.

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