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1 April 2021

To: Vice-Chair in the Chair – Councillor Pippa Heylings

All Members of the Planning Committee - Councillors Henry Batchelor, Anna Bradnam, Dr. Martin Cahn, Peter Fane, Dr. Tumi Hawkins, Judith Rippeth, Deborah Roberts, Heather Williams, Dr. Richard Williams and Nick Wright

Quorum: 3

Substitutes Councillors Grenville Chamberlain, Mark Howell,  
if needed: Dr. Shrobona Bhattacharya, Graham Cone, Sue Ellington,  
John Batchelor, Dr. Claire Daunton, Eileen Wilson, Geoff Harvey and  
Brian Milnes

Dear Councillor

You are invited to attend the next meeting of **Planning Committee**, which will be held as a **Virtual meeting - Online** on **Tuesday, 13 April 2021 at 10.00 a.m.** **A weblink to enable members of the press and public to listen to the proceedings will be published on the relevant page of the Council's website , normally, at least 24 hours before the meeting.**

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

Yours faithfully  
**Liz Watts**  
Chief Executive

**The Council is committed to improving, for all members of the community, access to its agendas and minutes. We try to take all circumstances into account but, if you have any specific needs, please let us know, and we will do what we can to help you.**

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## Agenda

## Pages

1. **Chair's announcements**
2. **Apologies and substitutions**  
To receive apologies for absence from committee members.

- 3. Declarations of Interest**
- 1. Disclosable pecuniary interests (“DPI”)**  
A DPI is where a committee member or his/her spouse or partner has any kind of beneficial interest in the land under consideration at the meeting.
  - 2. Non-disclosable pecuniary interests**  
These are interests that are pecuniary involving a personal financial benefit or detriment but do not come within the definition of a DPI. An example would be where a member of their family/close friend (who is not their spouse or partner) has such an interest.
  - 3. Non-pecuniary interests**  
Where the interest is not one which involves any personal financial benefit or detriment to the Councillor but arises out of a close connection with someone or some body /association. An example would be membership of a sports committee/ membership of another council which is involved in the matter under consideration.
- 4. Minutes of Previous Meetings** **1 - 12**  
To authorise the Chair to sign the Minutes of the meeting held on 10 March 2021 and the Extraordinary meeting held on 29 January 2021 as correct records.
  - 5. 20/02929/OUT - Stapleford (Land Between Haverhill Road and Hinton Way)** **13 - 68**  
  
Outline planning for the development of land for a retirement care village in Use Class C2 comprising housing with care, communal health, wellbeing and leisure facilities, public open space, landscaping, car parking, access and associated development and public access countryside park with all matters reserved except for access.
  - 6. 20/03151/REM - Guilden Morden (Land South of Thompsons Meadow)** **69 - 84**  
  
Reserved matters for appearance, landscaping, layout and scale following outline planning permission S/3077/16/OL for the proposed development of up to 16 dwellings (8 market and 8 affordable) with all matters reserved except access
  - 7. 20/03370/OUT - Waterbeach (95 Bannold Road)** **85 - 254**  
  
Outline planning permission with some matters reserved except for access for the demolition of the existing house and the erection of five dwellings
  - 8. 20/03105/FUL - Fowlmere (Mill Farm, Fowlmere Road)** **255 - 296**  
  
Construction of a single storey dwelling

<b>9.</b>	<b>20/04223/HFUL - Fowlmere (20A Pipers Close)</b>	<b>297 - 304</b>
	New access from London Road and extension to the existing parking area to create on-site parking and turning	
<b>10.</b>	<b>20/02098/S106a - Papworth Everard (Land between Church Lane and Ermine Street South, Church Lane)</b>	<b>305 - 320</b>
	Modification of planning obligations (Community Building) contained in a Section 106 Agreement dated 21 October 2014 pursuant to outline planning permission S/0623/13/FL	
<b>11.</b>	<b>S/3215/19/DC - Longstanton (The Retreat, Fews Lane)</b>	<b>321 - 348</b>
	Discharge of Conditions 4 (Foul Water Drainage) and 5 (Surface Water Drainage) of planning permission S/2937/16/FL	
<b>12.</b>	<b>20/02453/S73 - Longstanton (The Retreat , Fews Lane)</b>	<b>349 - 372</b>
	Variation of Condition 7 (Traffic Management plan) pursuant to planning permission S/0277/19/FL to reflect the proposals in the Traffic Management Plan to substitute the current wording in Condition 7 with "The development hereby permitted shall be carried out in accordance with the Traffic Management Plan prepared by SLR Consulting, Version Final_1 and dated December 2019" (Re-submission of 20/01547/S73)	
<b>13.</b>	<b>Cambourne - Proposed diversion of Public Footpath no. 7</b>	<b>373 - 414</b>
<b>14.</b>	<b>Enforcement Report</b>	<b>415 - 422</b>
<b>15.</b>	<b>Appeals against Planning Decisions and Enforcement Action</b>	<b>423 - 430</b>

#### **GUIDANCE NOTES FOR MEMBERS OF THE PUBLIC FOR REMOTE MEETINGS**

Members of the public are welcome to view the live stream of this meeting, except during the consideration of exempt or confidential items, by following the link to be published on the Council's website.

Any person who participates in the meeting in accordance with the Council's procedure rules, is deemed to have consented to being recorded and to the use of those images (where participating via video conference) and/or sound recordings for webcast purposes. When speaking, members of the public should not disclose any personal information of any individual as this might infringe on the rights of that individual and breach the Data Protection Act.

For more information about this meeting please contact [democratic.services@scams.gov.uk](mailto:democratic.services@scams.gov.uk)

#### **Exclusion of Press and Public**

The law allows Councils to consider a limited range of issues in private session without members of the Press and public being present. Typically, such issues relate to personal details, financial and business affairs, legal privilege and so on. In every case, the public interest in excluding the Press and Public from the meeting room must outweigh the public interest in having the information disclosed to them. The following statement will be proposed, seconded and voted upon.

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

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

### **Notes**

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

# Agenda Item 4

## South Cambridgeshire District Council

Minutes of a meeting of the Planning Committee held on  
Friday, 29 January 2021 at 11.00 a.m.

PRESENT: Councillor John Batchelor – Chair  
Councillor Pippa Heylings – Vice-Chair

Councillors: Anna Bradnam Dr. Martin Cahn  
Peter Fane Dr. Tumi Hawkins  
Judith Rippeth Deborah Roberts  
Heather Williams Dr. Richard Williams  
Nick Wright

Officers in attendance for all or part of the meeting:

David Allatt (Transport Assessment Manager), Sharon Brown (Assistant Director (Planning Delivery)), Christopher Carter (Delivery Manager - Strategic Sites), Mike Huntington (Principal Planning Officer), Stephen Reid (Senior Planning Lawyer), David Roberts (Principal Planning Policy Officer) and Ian Senior (Democratic Services Officer)

Councillor Hazel Smith was in attendance, by invitation.

### 1. Chair's announcements

For the benefit of members of the public viewing the live webcast of the meeting, the Chair introduced Committee members and officers in attendance.

He explained that this meeting of the Planning Committee was being held virtually and asked for patience bearing in mind the challenges posed by the technology in use and by the new meeting skills required.

The Chair confirmed that the Planning Committee would continue with the practice of recording votes unless a resolution could be reached by affirmation. He explained the process he would follow in a virtual meetings environment.

He confirmed that the meeting was quorate but informed members of the public that, if a Committee member was absent for any part of the presentation of or debate about an agenda item then that member would not be allowed to vote on that item.

Because of technical issues, this meeting had started an hour later than advertised. The Chair apologised for the delay and noted that the Council's Monitoring Officer had confirmed there was no problem with the late start of the Committee meeting in constitutional terms. By seven votes to three, with one abstention, the Committee **agreed to continue** the meeting (Councillors Roberts, Heather Williams and Wright voted to defer the meeting, and Councillor Richard Williams abstained).

## 2. Apologies

There were no Apologies for Absence.

## 3. Declarations of Interest

The following three Councillors declared non-pecuniary interests in Minute 4 (S/2075/18/OL - Waterbeach (Land adjacent to Waterbeach Barracks and Airfield Site))

Councillor Anna Bradnam as a Member for Milton and Waterbeach had been involved in discussions locally and had been a member of the South Cambridgeshire District Council Planning Committee when related applications had been considered previously. Councillor Bradnam was considering the matter afresh.

Councillor Judith Rippeth as a Member for Milton and Waterbeach had been involved in discussions locally but was considering the matter afresh.

Councillor Dr. Richard Williams had taught in the past (but no longer did) at St. John's College, Cambridge, which was referred to in the report from the Joint Director of Planning and Economic Development.

## 4. S/2075/18/OL - Waterbeach (Land adjacent to Waterbeach Barracks and Airfield Site)

The Committee considered an application, as amended, seeking planning permission for the development of up to 4,500 dwellings, business, retail, community, leisure and sports uses, new primary and secondary schools and sixth form centre, public open spaces (including parks and ecological areas), points of access, associated drainage and other infrastructure, groundworks, landscaping and highway works. The proposal formed part of the strategic allocation for a new town as set out in Policy SS/6 of the adopted South Cambridgeshire Local Plan 2018. The western half of the proposed new town had been the subject of a separate outline planning application by Urban and Civic (U&C) for up to 6,500 dwellings, approved in September 2019. The cumulative total for the two separate proposals amounted to the development of up to 11,000 dwellings.

The following public speakers addressed the meeting:

- Barbara Bull (resident objector)
- Katherine Else (objector)
- Nigel Seamarks (resident objector)
- Jane Williams (resident objector)
- Chris Goldsmith (for the applicant)
- Councillor Kate Grant (Waterbeach Parish Council)
- County Councillor Tim Wotherspoon (mandated to speak on behalf of Cambridgeshire County Council)
- Councillor Hazel Smith (local Councillor)
- Councillor Anna Bradnam (Committee member speaking as a local

- Councillor)
- Councillor Judith Rippeth (Committee member speaking as a local Councillor)

During the meeting, the principal issues raised and discussed were:

- The potential for flooding, and flood mitigation measures
- Insufficient provision of public open space
- The health and wellbeing of existing and future residents
- Housing and, in particular, the need for an increase in the provision of affordable housing
- Relocation of the railway station
- Improvements to the A10
- The impact on the setting of Denny Abbey
- Waterbeach Neighbourhood Plan
- Governance of the new town during its early years and the importance of involving existing residents and Waterbeach Parish Council
- Density and building heights
- Viability
- Transport, including financial contributions towards strategic transport
- Impact of traffic on Waterbeach village, including Cody Road
- The need for infrastructure to be delivered at a very early stage of development
- Importance of this Fen-edge location
- The vital need for the current development to be taken forward together with the neighbouring development by Urban & Civic to ensure the cohesive delivery of a single new town

At the beginning of the Member debate, there was some difference of opinion about whether final wording of Conditions should be agreed by officers in consultation with the Chair and Vice-Chair or presented to the full Committee for confirmation. A motion was duly proposed and seconded that any changes to the wording of Conditions made subsequent to a Committee decision to approve should be determined by the Committee at a future meeting. Upon a vote being taken by roll call, the motion was **lost** by seven votes to four. Councillors Roberts, Heather Williams, Richard Williams, and Wright voted in favour of the notion while Councillors John Batchelor, Bradnam, Cahn. Fane, Hawkins, Heylings and Rippeth maintained that final wording to Conditions following the meeting should be agreed by officers in consultation with the Chair and Vice-Chair.

Members went on to consider the extensive list of draft Conditions but, in particular, Conditions 15, 42 and 57(b). There was some disagreement over the use of Grampian Conditions, and reference was made to such a Condition that had delayed development at Northstowe by seven years.

Members discussed whether Condition 15 should refer, as drafted, to a range of public transport options or focus solely on rail. The Chair favoured keeping as many options open as possible rather than closing down the possibility of a flexible approach, while the Vice-Chair pointed out that the important point was to achieve

modal shift and unlock the 'link protocol'.

The Principal Planning Policy Officer confirmed that the site under consideration did not currently form part of South Cambridgeshire District Council's five-year housing land supply.

Upon a motion being proposed, seconded, and voted upon, and by six votes to five, the Committee **agreed to amend Condition 15** so that it stated:

"No dwellings shall be occupied until the approved railway station (planning ref. S/0791/18/FL or as may be varied) has been completed and is open for use (including stops within the application area), and the link road connecting the site to the southern junction with the A10 as shown on parameter plan 1330 GA 010002 Rev 17 in the adjacent U&C development site (planning ref. S/0559/17/OL) has also been completed and is open for use."

(Councillors Bradnam, Cahn, Fane, Hawkins, Heylings and Rippeth voted to amend the Condition. Councillors John Batchelor, Roberts, Heather Williams, Richard Williams, and Wright voted to retain it as set out in the report from the Joint Director of Planning and Economic Development.)

At this stage, and in accordance with Standing Order 9 (Duration of meeting), the Committee voted by **affirmation** to **continue** meeting beyond the four-hour mark.

Members briefly discussed Condition 57(b) as set out in the report from the Joint Director of Planning and Economic Development. Upon a motion being proposed and seconded, and by **affirmation**, the Committee agreed to amend paragraph (b) of Condition 57 so that it stated:

"No development shall commence until a Site Wide Construction and Environmental Management Strategy (CEMS) has been submitted to and approved in writing by the Local Planning Authority. The document shall include details of:

.....(b) Indication of the locations of access routes, excluding access onto any residential roads, and associated works to enable the carrying out of development including temporary haul routes, highway signage strategy and approach to monitoring and enforcement."

Continuing the debate, Councillor Deborah Roberts said that Members should be concerned that the offer of 30% affordable housing fell well short of the Council Policy, which was to seek 40%. She also said there was insufficient certainty as to funding key elements of the new town. Councillor Roberts raised concerns that the original plan for 8,000 dwellings across the Urban & Civic and RLW land combined had now increased to a figure up to 11,000. **Councillor Roberts also expressed a view that quality** of life should be a crucial factor in determining this application.

Councillor Heather Williams accepted that the principle of development had been

established but was doubtful about the proposed scale and density. She considered the application to be unsustainable for a Fen-edge location. The application conflicted with Council Policies, including Policy H/8 and Policy H/10.

Councillor Peter Fane pointed out that the application was Outline only. While recognising the concerns expressed by Waterbeach Parish Council, he suggested that granting Outline planning permission might accelerate delivery of the new railway station.

Councillor Nick Wright said that there was too much uncertainty about the delivery of the development. It was important to secure support from the local community, and that had not been achieved yet.

As one of the local Members, Councillor Judith Rippeth expressed the opinion that the application was simply not of a high enough standard and that further development of the proposals was required.

Members turned their attention to flood risk and noted that the Environment Agency was satisfied that such risk could be mitigated appropriately. Upon the proposal of Councillor Heylings, seconded by Councillor Bradnam and by seven votes to four, the Committee **agreed** to amend Condition 42 so that, instead of the wording in the report from the Joint Director of Planning and Economic Development, it now stated:

“No Reserved Matters applications shall be considered until such time as a scheme to manage the residual risks of flooding (both within and outside of the site) to and from the development has been submitted to and approved in writing by the local planning authority. The scheme shall be fully implemented and subsequently maintained, in accordance with the scheme’s timing/ phasing arrangements, or within any other period as may subsequently be agreed, in writing, by the local planning authority.”

(Councillors John Batchelor, Bradnam, Cahn, Fane, Hawkins, Heylings, and Rippeth voted to amend Condition 42. Councillors Roberts, Heather Williams, Richard Williams, and Wright voted against.)

In response to a question, the Principal Planner informed the Committee that the issue of burials had been addressed as part of the Urban & Civic application (S/0559/17/OL - Waterbeach and Landbeach (Waterbeach Barracks and Airfield Site, Waterbeach, Cambridgeshire), and would be kept under review by the joint group involving U&C and RLW. He also confirmed that the local Internal Drainage Board did not object to the current application.

Members noted that the planning permission granted to Urban & Civic (S/0559/17/OL - Waterbeach and Landbeach (Waterbeach Barracks and Airfield Site, Waterbeach, Cambridgeshire) was a material consideration in determining the current application.

The Planning Committee gave officers **delegated authority to approve the application subject to**

1. The prior completion of a Legal Agreement under Section 106 of the Town and Country Planning Act 1990 on the terms broadly referenced in Section 9 of the main report from the Joint Director of Planning and Economic Development, with delegated authority granted to the Joint Director of Planning and Economic Development to negotiate, secure, and complete such agreement on terms as are otherwise considered to be appropriate and necessary, including the Heads of Terms (HoTs) as set out in the report, and any other HOTS or the detail, such as phasing and triggers, that are still under negotiation. The final wording of any significant amendments to HoTs listed in the report will be agreed by officers in consultation with the Chair and Vice-Chair of Planning Committee prior to the issuing of planning permission.
2. Setting out, as part of the decision notice and in accordance with the Town and Country Planning (EIA) Regulations 2017 reg. 29 'information to accompany decisions' a reasoned conclusion of the significant effects of the development on the environment and to carry out appropriate notification under reg. 30 accordingly;
3. The presentation to Planning Committee in July or August 2021 of a report outlining progress with the Section 106 obligations; and
4. The Conditions set out in the report from the Joint Director of Planning and Economic Development amended as follows

(a) Condition 15 now to state

No dwellings shall be occupied until the approved railway station (planning ref. S/0791/18/FL or as may be varied) has been completed and is open for use (including stops within the application area), and the link road connecting the site to the southern junction with the A10 as shown on parameter plan 1330 GA 010002 Rev 17 in the adjacent U&C development site (planning ref. S/0559/17/OL) has also been completed and is open for use.

(b) Condition 42 now to state

No Reserved Matters applications shall be considered until such time as a scheme to manage the residual risks of flooding (both within and outside of the site) to and from the development has been submitted to and approved in writing by the local planning authority. The scheme shall be fully implemented and subsequently maintained, in accordance with the scheme's timing/ phasing arrangements, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

(c) Condition 57 now to state

No development shall commence until a Site Wide Construction and Environmental Management Strategy (CEMS) has been submitted. No development shall commence until a Site Wide Construction and

Environmental Management Strategy (CEMS) has been submitted to and approved in writing by the Local Planning Authority. The document shall include details of:

.....(b) Indication of the locations of access routes, excluding access onto any residential roads, and associated works to enable the carrying out of development including temporary haul routes, highway signage strategy and approach to monitoring and enforcement.

5. The Informatives set out in the report from the Joint Director of Planning and Economic Development, and additional Informatives from Network Rail discussed at the meeting and relating to standard asset protection as detailed in an e-mailed letter dated 28 January 2021.

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**The Meeting ended at 5.20 p.m.**

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## **South Cambridgeshire District Council**

Minutes of a meeting of the Planning Committee held on  
Wednesday, 10 March 2021 at 10.00 a.m.

**PRESENT:** Councillor Pippa Heylings – Chair  
Councillor Henry Batchelor – Vice-Chair (substitute)

**Councillors:** Dr. Martin Cahn Sue Ellington (substitute)  
Peter Fane Geoff Harvey (substitute)  
Dr. Tumi Hawkins Judith Rippeth  
Deborah Roberts Heather Williams  
Dr. Richard Williams

**Officers in attendance for all or part of the meeting:**  
Patrick Adams (Senior Democratic Services Officer), Christopher Carter  
(Delivery Manager - Strategic Sites), Stephen Reid (Senior Planning  
Lawyer) and Lewis Tomlinson (Senior Planning Officer)

Councillor Anna Bradnam was in attendance, by invitation.

### **1. Chair's announcements**

For the benefit of members of the public viewing the live webcast of the meeting, the Chair introduced Committee members and officers in attendance.

She explained that this meeting of the Planning Committee was being held virtually and asked for patience bearing in mind the challenges posed by the technology in use and by the new meeting skills required.

The Chair confirmed that the Planning Committee would continue with the practice of recording votes unless a resolution could be reached by affirmation. She explained the process she would follow in a virtual meetings environment.

She confirmed that the meeting was quorate but informed members of the public that, if a Committee member was absent for any part of the presentation of or debate about an agenda item then that member would not be allowed to vote on that item. However, given the circumstances with technological challenges at times, the Chair asked members to indicate if they had any problems and time would be taken to enable them to reconnect and continue as voting members.

Councillor Henry Batchelor was elected as Vice Chair for the meeting by affirmation.

### **2. Apologies**

Apologies for Absence were received from Councillors John Batchelor, Anna Bradnam and Nick Wright. Councillors Henry Batchelor, Geoff Harvey and Sue Ellington were acting as substitutes.

### **3. Declarations of Interest**

Councillor Henry Batchelor declared a non pecuniary interest as a County Councillor, who owned the Park and Ride site. He participated in the debate and voted.

Councillor Judith Rippeth declared a non pecuniary interest as the Local Member for the ward of Milton and Waterbeach, but came to the matter afresh. She participated in the debate and voted.

#### **4. Minutes of Previous Meeting**

The Committee agreed the minutes of the meeting held on 10 February 2021 as a correct record.

#### **5. 20/04010/FUL - Milton (Land South West of Milton Park and Ride, Butt Lane)**

James Littlewood (Cambridge, Past Present and Future – objecting), Superintendent James Sutherland and Colin Luscombe (Cambridgeshire Constabulary - applicant), Don Wildman (Chairman of Milton Parish Council) and Councillor Anna Bradnam (as a local Member) addressed the meeting.

Councillor Peter Fane supported the application, as he considered that it met the “very special circumstances” that would permit building on the green belt. He did not believe that the building would threaten the green separation between Milton and Cambridge. He asserted that it would have limited impact on the landscape, whilst any alternative sites would more damaging.

Councillor Richard Williams did not support the application, as he considered that the “very special circumstances” specification had not been met to permit construction on the green belt. He expressed concern on the impact on the landscape and the potential nuisance factor for existing residents.

Councillor Martin Cahn declared that he had missed part of the discussion and so would not be voting on this application. He was worried about the impact on the green belt but recognised that other possible sites would be potentially more damaging.

Councillor Henry Batchelor expressed his support for the application, as the best available site.

Councillor Judith Rippeth requested an additional planning condition to construct CCTV on the pedestrian bridge over the A10 to address fear of crime. She also suggested that a new, wider bridge should be constructed to replace the current bridge.

Chris Carter explained that the Highways Authority did not consider that the application warranted the construction of a wider cycle bridge to replace the current pedestrian bridge over the A10. He advised against an additional planning condition to build such a bridge.

Councillor Deborah Roberts suggested that the green belt site had been selected to reduce costs. She expressed concerns about the cumulative effect of building on the green belt and the risk of an increase on crime. She suggested that the development could be discussed in the forthcoming Local Plan. She stated that the requirement to meet the “very special circumstances” to build on the green belt had not been met and she would be opposing the application.

Councillor Tumi Hawkins stated that 22 potential sites had been identified and this had

been shortlisted to 3 sites, all of which were in the green belt. The site under discussion was the best site and the benefits of having a new police station outweighed the harm. She requested that a benchmarking exercise be carried out to monitor whether crime increased when the police station was built.

Councillor Geoff Harvey agreed with Tumi Hawkins that the applicant had explained why the location had chosen and he agreed with Councillor Peter Fane that the application met the “very special circumstances” that would permit building on the green belt. However, he expressed concern that a public building had nothing more than the minimum sustainability features allowed. He requested that electric car charges be put in the car park.

Councillor Heather Williams recognised the need for a new Police station to be built, but was not fully convinced that the “very special circumstances” criteria had been met.

The Committee considered three additional conditions.

Councillor Henry Batchelor proposed and Councillor Judith Rippeth seconded the inclusion of a condition for the installation of CCTV on the pedestrian bridge over the A10. This was agreed by affirmation.

Councillor Tumi Hawkins proposed and Councillor Judith Rippeth seconded the inclusion of a condition to monitor the crime levels in Milton before and after the Police station becomes operational. This was agreed by affirmation.

Councillor Geoff Harvey proposed and Councillor Tumi Hawkins seconded the inclusion of a condition to install electric vehicle charging points on the site and for additional sustainable energy measures to be considered.

By six votes to four, with one member not voting, the Committee voted to **Approve** the Recommendation, subject to

- a) Consultation with and confirmation from the Secretary of State that the application is not to be called in for his determination; and
- b) The planning conditions set out in the report; and
- c) The three additional conditions:
  1. Monitored CCTV installed on the bridge over the A10.
  2. A report on crime levels in Milton before and after the station becomes operational
  3. The installation of Electric Vehicle charging points, with informatives on sustainable green energy measures.

(Councillors Henry Batchelor, Peter Fane, Geoff Harvey, Tumi Hawkins, Pippa Heylings and Judith Rippeth voted to approve the application. Councillors Sue Ellington, Deborah Roberts, Heather Williams and Richard Williams voted to refuse. Councillor Martyn Cahn did not vote.)

## 6. **Enforcement Report**

The Committee **received and noted** an Update on enforcement action.

## 7. **Appeals against Planning Decisions and Enforcement Action**

The Delivery Manager (Strategic Sites) agreed to provide Councillor Judith Rippeth details

of the recent appeal decision at Bannold Road, Waterbeach where the Inspector had found against South Cambridgeshire District Council and ordered it to pay the appellant's costs.

On the request of Councillor Henry Batchelor, the Delivery Manager (Strategic Sites) agreed to amend the planning decision for the informal hearing for Hundred Housing from "non determination" to "appeal against refused."

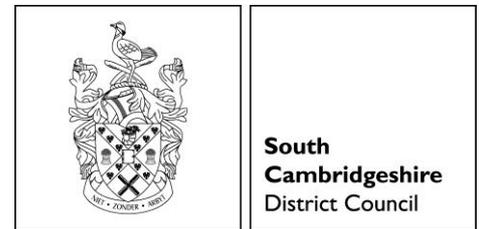
The Committee **received and noted** the Appeals against Planning Decisions and Enforcement Action report.

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**The Meeting ended at 2.00 p.m.**

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# Agenda Item 5



**Report to:**

South Cambridgeshire District  
Council Planning Committee

13 April 2021

**Lead Officer:**

Joint Director of Planning and Economic Development

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## **20/02929/OUT – Land Between Haverhill Road and Hinton Way, Stapleford, Cambridge**

Proposal: Outline planning for the development of land for a retirement care village in Use Class C2 comprising housing with care, communal health, wellbeing and leisure facilities, public open space, landscaping, car parking, access and associated development and public access countryside park with all matters reserved except for access

Applicant: Axis Land Partnerships, D./M./W. Chalk/Trafford/Chalk

Key material considerations:

- Principle of Development in the Green Belt
- Green Belt Openness and Purposes
- Character and Appearance of the Area
- Landscape
- Biodiversity
- Trees
- Highway Safety and Parking
- Flood Risk and Drainage
- Heritage Impact
- Residential Amenity
- Renewables / Climate Change
- Contaminated Land
- Loss of Agricultural Land
- Other Matters
- Very Special Circumstances

Date of Member site visit: None

Is it a Departure Application?: Yes (advertised 02 September 2020)

Decision due by: 20 April 2021 (extension of time agreed)

Application brought to Committee because: Referred to the Planning Committee through Delegation Meeting held on 10 November 2020 following objection from Stapleford Parish Council.

Officer Recommendation: Refusal

Presenting Officer: Michael Sexton

## **Executive Summary**

1. This application seeks outline planning permission for the development of land for a retirement care village in Use Class C2 comprising housing with care, communal health, wellbeing and leisure facilities, public open space, landscaping, car parking, access and associated development and public access countryside park with all matters reserved except for access.
2. The site is located outside of the development framework boundary of Stapleford, in the Green Belt and countryside. The site is used for arable agricultural uses and as such there is little existing vegetation within the site, aside from a small area of tree planting towards the sites northern edge; no part of the site could be considered brownfield land. The site is located in an area designated as improved landscaping under the Cambridge Southern Fringe Area Action Plan.
3. The retirement care village would constitute in inappropriate development in the Green Belt which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In addition to the harm by reason of inappropriateness, the retirement care village is also considered to result in harm by virtue of the loss of openness of the Green Belt, conflict with the purposes of the Green Belt, detrimental impact on the character of the area and an adverse impact to landscape character.
4. The applicant's agent has sought to argue that the proposed development would bring forward several benefits that would outweigh the identified harm. These arguments are considered in the report and, whilst it is acknowledged the development would bring forward some benefits, these factors are not considered to carry sufficient weight, individually or collectively, to constitute the 'very special circumstances' required to justify inappropriate development in the Green Belt and to clearly outweigh the identified harm.
5. The application has therefore been recommended for refusal.
6. Should the application be approved following members conclusion that the development would be inappropriate development in the Green Belt, the application will need to be referred to the Secretary of State under The Town and Country Planning (Consultation) (England) Direction 2009. There would also be a need to agree a full list of conditions and the requirements of any Section 106 agreement.

## **Relevant planning history**

7. 20/03141/SCRE – EIA - Screening opinion for a Proposed retirement village and 20 hectare green space Open for comment icon – pending.

8. S/0520/07/F – Erection of 18 affordable dwellings – Approved.
9. S/0442/06/F – 17 houses 8 flats and change of use of agricultural land for new football pitch – Approved.
10. S/1672/91/F – Public golf driving range – Refused.
11. S/0211/91/F – Public golf driving range – Refused.

## **Planning policies**

### **National Guidance**

12. National Planning Policy Framework 2019  
National Planning Practice Guidance  
National Design Guide 2019

### **South Cambridgeshire Local Plan 2018**

13. S/1 – Vision  
S/2 – Objectives of the Local Plan  
S/3 – Presumption in Favour of Sustainable Development  
S/4 – Cambridge Green Belt  
S/5 – Provision of New Jobs and Homes  
S/6 – The Development Strategy to 2031  
S/7 – Development Frameworks  
S/8 – Rural Centres  
CC/1 – Mitigation and Adaptation to Climate Change  
CC/3 – Renewable and Low Carbon Energy in New Developments  
CC/4 – Water Efficiency  
CC/6 – Construction Methods  
CC/7 – Water Quality  
CC/8 – Sustainable Drainage Systems  
CC/9 – Managing Flood Risk  
HQ/1 – Design Principles  
HQ/2 – Public Art and New Development  
NH/2 – Protecting and Enhancing Landscape Character  
NH/3 – Protecting Agricultural Land  
NH/4 – Biodiversity  
NH/6 – Green Infrastructure  
NH/8 – Mitigating the Impact of Development in and adjoining the Green Belt  
NH/10 – Facilities for Recreation in the Green Belt  
NH/14 – Heritage Assets  
H/8 – Housing Density  
H/9 – Housing Mix  
H/10 – Affordable Housing  
H/12 – Residential Space Standards  
SC/2 – Health impact Assessment

SC/5 – Community Healthcare Provision  
SC/9 – Lighting Proposals  
SC/10 – Noise Pollution  
SC/11 – Contaminated Land  
SC/12 – Air Quality  
TI/2 – Planning for Sustainable Travel  
TI/3 – Parking Provision  
TI/8 – Infrastructure and New Developments  
TI/10 – Broadband

### **Cambridge Southern Fringe Area Action Plan 2008**

14. CSF/1 – The Vision for the Cambridge Southern Fringe  
CSF/5 – Countryside Enhancement Strategy

### **South Cambridgeshire Supplementary Planning Documents (SPD):**

15. Sustainable Design and Construction SPD – Adopted January 2020  
Cambridgeshire Flood and Water SPD – Adopted November 2016  
Health Impact Assessment SPD – Adopted March 2011  
District Design Guide SPD – Adopted March 2010  
Landscape in New Developments SPD – Adopted March 2010  
Biodiversity SPD – Adopted July 2009  
Listed Buildings: Works to or affecting the setting of SPD – Adopted July 2009  
Open Space in New Developments SPD – Adopted January 2009  
Public Art SPD – Adopted January 2009  
Trees & Development Sites SPD – Adopted January 2009

### **Consultation**

16. **Stapleford Parish Council** – Objection.

See Appendix 1 for a full copy of the comments from Stapleford Parish Council dated 27 August 2020. The comments of Stapleford Parish Council are summarised as follows:

The Parish Council had, in 2015, made a statement supported by a local firm of solicitors regarding its position in regard to the Greenbelt:

Changes to land are governed by Cambridge Southern Fringe AAP;  
The Parish Council is tasked with preserving Stapleford's Green Belt for the pleasure and benefit of its current residents and as a custodian for future residents. The Parish Council, as is its duty, will consider afresh any Planning applications and paragraphs 81 and 87 of the National Planning Policy Framework will be taken into account in its objective consideration of the application and its merits.

We consider that the application does not comply with these policy statements.

Six members of the public registered their objections on the basis that:

- The proposed development is in the wrong place for connectivity, access to services and facilities, reliance on private cars, lack of parking for visitors to the retirement village and to the park.
- Affordability: not considered affordable for local people and would not encourage downsizing in the village, thus not releasing any of the existing housing stock.
- Incursion into the Green Belt: set a precedent leading to further erosion of this important regulatory feature.
- Height, bulk and scale of the proposed buildings.
- Covid-19: services would not be open to the general public due to the risk to the residents of the spread of Covid-19.
- Country park: this was seen as a 'sweetener' to obtain development.
- Local need: the need for this development to benefit the local community was not demonstrated by a local assessment, rather the development would be open to anyone who could afford it. It was considered to be a private, exclusive development which would not want, for example, local children using the proposed swimming pool.

The Parish Council supported the comments made by members of the public, and made further comment:

- Disproportionate in the context of Stapleford both in the height and mass and also in the number of accommodation units. It will provide for better off people from all over South Cambridgeshire and could therefore be built anywhere in South Cambridgeshire without the need to compromise the Green Belt.
- Carbuncle on the edge of the village.
- The design was not conducive for older people to move to, as bungalows were in greater demand.
- The impact on the street scene would be excessive and extensive, the bulk and scale was considered out of keeping with the vernacular.
- The proposal appears to assume that the Cambridge South East Busway will proceed. In fact, it still faces several significant obstacles.
- Lack of public transport to the site, reliant on private transport increasing congestion and on street parking within the village and concentrating around the doctors.
- Several similar schemes in nearby villages which are struggling to fill vacancies.
- The provision does not match any perceived local need, which has not been established.
- The proposed development has not demonstrated that it has any special reason which would require it to be built in the Greenbelt.
- No guarantees that the country park would be managed for the benefit and use of the whole community – there are 'promises' only.
- The Axis representative admitted that there are some negatives associated with the Retirement Village proposal. These negatives will be experienced by all residents of Stapleford but only better off people and those not requiring NHS treatment will be able to benefit from the Retirement Village. This is divisive and does not sit comfortably with the values and community spirit of Stapleford.

- So far as Axis's reference to the philanthropic nature of the proposal is concerned, the aspirations of the Magog Down Trust and of the Bridleway Group could be met by philanthropic access permissions and gifting of land which is not conditional on receiving planning permission for a Retirement Village.

Summary:

Stapleford Parish Council objects to this outline application for a retirement village on the grounds that it does not have the special requirements to make it necessary for it to be built within the Greenbelt – it could be built anywhere in South Cambs. The height, bulk and scale of the proposed development is incompatible with the high value landscape of the area.

No local need has been established, and it is unlikely to be affordable to the majority of local people wanting to downsize.

The country park could be delivered for local benefit without the encumbrance of the built development.

17. **Great Shelford Parish Council** – Objection.

The only section of this development which is within this PC is the perimeter of the Country Park proposal onto Hinton Way. This land is within Green Belt and cannot be construed as a Rural Exception Site as it meets none of the criteria for such. Therefore, we ask for the permission to be refused.

18. **Cllr Nick Sample** – Objection.

As a member for the local ward, I would like to register my objection to the proposed plans for the development of a retirement village. There is clearly a need locally for more affordable housing suitable for elderly residents. This would have the dual benefits of providing safe, local housing suitable for the needs of the intended residents, while also freeing up housing stock for families, including key workers. However, proposals for such developments must (1) be consistent with local planning policy, including policy on the green belt and rural exception sites (2) clearly demonstrate that the proposed housing will meet the needs of local elderly residents (3) demonstrate feasibility within the local context, including access and transport infrastructure.

In all three areas, there are fundamental issues with the plans for the proposed development 20/029029/OUT.

That said, I look forward to seeing alternative proposals for retirement homes in South Cambridgeshire that demonstrably meet the needs of our residents, are suitable to the local context and consistent with local planning policy.

19. **Affordable Housing Team** – No objection.

There is a need to provide accommodation for older people in the District but it

is likely that this type of scheme will only be suitable for those on high incomes.

If the retirement village is classed as C2 – unlikely to require affordable housing.

If affordable housing is provided on site – concerns that homes may not be affordable to those on low incomes due to high service charges.

What mitigations will be in place in terms of the recruitment pressures identified for the care workforce.

20. **Air Quality Officer** – No objection.

Recommend conditions for a Low Emission Strategy and Emission Ratings.

21. **Anglian Water** – No objection.

22. **British Horse Society** – Object.

Proposes to extinguish an existing safe, off road multi user path, fails to provide non-motorised user (NMU) access for all users contrary to the Cambs RoWIP and provides no mitigation for the 575 traffic movements in a 24 hour period on a road which is currently used by many NMU's.

23. **Cambridge Past, Present and Future** – Objection.

Cambridge Past, Present and Future objects to this application because it is a speculative development that is not in the Local Plan, outside the village framework and in the green belt. It is not compliant with planning policy and we do not see how it would be possible to demonstrate that there is not another suitable site for a retirement home in greater Cambridge that is not within the green belt. Below we set out our reasons in more detail and highlight other concerns that we have with this application.

The following grounds of objection have been summarised for the purposes of the committee report:

**Green Belt and Local Plan Policy**

- The land is in the Green Belt.
- The applicant offers no justification for proposed development in the Green Belt, only a mitigation in the form of a countryside park.
- Local Plan does not identify an urgent need for housing of the type proposed; therefore, no basis for an exception to Green Belt policy.
- Changes to land are governed by Cambridge Southern Fringe AAP; nowhere in the Local Plan is it suggested that this policy is contingent on development of any part of this land.

**Location in relation to village access**

- Building development would be over 2km away by road from nearest shop.

- Nearest bus stop is in Gog Magog Way, served by the intermittent no.31 Bus which only goes as far as Addenbrookes.
- The GCP busway is a long way from being realised and should not be a material planning consideration.

#### Countryside Park

- No evidence of any needs analysis for the country park, nor that one is required to support the development (given that there are already two serving the villages; Wandlebury Country Park and Magog Downs Countryside Site).
- Concerned about viability and parks partner to take on management of such a site.
- Ideally new countryside park should be adjacent to, and an extension of, Magog Downs.

#### Undeclared Transport Impacts

- No effort to measure capacities of the junction of Haverhill Road and Babraham Road (A1307) or Shelford Road (A1301).
- Development will boost traffic during busy hours, meaning that traffic levels will be higher than current evening peak.

#### 24. **Cambridgeshire Fire and Rescue** – No objection.

Request adequate provision be made for fire hydrants by way of a Section 106 agreement of planning condition.

#### 25. **Conservation Officer** – No objection.

#### 26. **Contaminated Land Officer** – No objection.

Recommend conditions requiring a detailed desk study and site walkover, risk assessment, remediation method statement, verification report and identification of additional or unexpected contamination.

#### 27. **Definitive Maps Officer** – No objection.

#### 28. **Designing Out Crime Officer** – No objection.

#### 29. **Ecology Officer** – No objection.

Recommend conditions requiring a Construction Ecological Management Plan (CEcMP), a Landscape and Ecological Management Plan (LEMP) and a Lighting Design Strategy for biodiversity.

The Planning Officer may wish to provide separate conditions to secure landscaping and management for the Retirement Village and Country Park.

#### 30. **Environment Agency** – No objection.

31. **Environmental Health** – No objection.

Recommend conditions for hours of works, driven pile foundations, spread of airborne dust, comprehensive construction programme, burning of waste, scheme for protecting proposed dwellings from noise from Haverhill Road, external lighting, waste management and minimisation strategy and assessment of noise impact of plant or equipment. Informatives relating to the noise insulation scheme condition, noise attenuation schemes and the Greater Cambridge Sustainable Design and Construction Supplementary Planning Document are also recommended.

32. **Greater Cambridge Partnership** – Holding Objection.

The Greater Cambridge Partnership (GCP) welcomes the applicant's acknowledgement of the Cambridge South East Transport scheme (CSETS) route as part of their proposed development. However, at present there is a clear conflict between the location of the retirement village and the preferred CSETS route, which is a committed development within the Local Transport Plan. It is important that the Parameters Plans are updated to show the correct route alignment for this section of the CSETS route and bus stop at Hinton Way and Haverhill Road are shown/land safeguarded.

The GCP would like the CSETS route, its dimensions and provision for the bus stop to the west of the site to be secured in a S106 agreement for safeguarding purposes. It is important that the CSETS route is not compromised or restrict alternative options to ensure the delivery of the route within the project timeframe and is of the highest quality in terms of its attractiveness and convenience for its users.

Having therefore reviewed the proposed Parameter Plans, the GCP believe there are areas of clarification and amendments required to enable the above objectives to comply with the scheme objectives of the CSETS route. Therefore, at this stage, the GCP has a holding objection to the proposal

33. **Historic England** – No comments to offer.

34. **Historic Environment Team** – No objection.

Recommend condition requiring a programme of archaeological work which has been secured in accordance with a written scheme of investigation (WSI).

35. **Landscape Officer** – Part objection (retirement village) part support (countryside park).

Retirement Village (object)

Disagree with the applicant's assessment that the development with landscape mitigation measures after a 1yr period would be major/moderate adverse effect & after a 15yr period would be moderate neutral based on the following criteria:

- Development of a retirement village upon agricultural land would be contrary to the Statement of Environmental Opportunity as outlined within National Character Area 87.
- SEO 1: Maintain sustainable but productive agricultural land use, while expanding and connecting the chalkland assemblage of semi-natural grasslands, for example by sensitive management of road verges and extending buffer strips along field margins, to benefit soil and water quality, reduce soil erosion, strengthen landscape character and enhance biodiversity and pollinator networks.
- SEO 3: Conserve and promote the landscape character, geodiversity, historic environment and historical assets of the chalklands, including the open views of undulating chalkland, large rectilinear field pattern and linear ditches, strong equine association and the Icknield Way prehistoric route. Improve opportunities to enhance people's enjoyment of the area while protecting levels of tranquillity.
- SEO 4: Conserve the settlement character and create or enhance sustainable urban drainage systems and green infrastructure within existing and new developments, particularly in relation to the urban fringe and growth areas such as south-east Cambridge, to provide recreation opportunities, increase soil and water quality and enhance landscape character.

Development of a main village centre does not reflect similar developments within or adjacent to the site particularly upon the edge of the settlement.

A 12 metre high main village centre would appear overbearing and incongruous particularly upon the edge of the rural village. It would be a noticeable encroachment into the countryside and an extension of the village framework.

Development would be major change, a permanent removal of an open agricultural field and a prominent new feature in the landscape particularly upon the edge of the village.

Agree that views to the site are limited due to the presence of roadside hedges, surrounding woodland and limited number of public rights of way. However, due to the undulating nature of the topography the mass and scale of the development would be visible particularly from the south east and north east.

Even with landscape mitigation measures the harm would be significantly adverse, unacceptable and contrary to policy NH/2 Protecting and Enhancing Landscape Character and HQ/1: Design Principles.

Countryside Park (support)

Agree with the applicant's assessment that the development with landscape mitigation measures after a 1yr period would be major neutral effect & after a 15yr period would be major beneficial effect. This area will change from arable to seminatural grassland and trees/scrub and would be more in keeping with objectives for landscape improvement and recreational / biodiversity benefits.

36. **Lead Local Flood Authority** – No objection.

Recommend conditions requiring a surface water drainage scheme for the site and details for the long term maintenance arrangements for the surface water drainage system. Informatives relating to infiltration and pollution control are also recommended.

37. **Local Highways Authority** – No objection.

Recommend conditions for visibility splays (as per drawing number 406.09693.00002.14.H011.1), junction access specifications (including radius kerbs, engineering scheme and metalled/sealed surface for a minimum length of 10 metres from the edge of the existing carriageway), access drainage measures and a traffic management plan. An informative relating to works to or within the public highway is also recommended.

38. **Natural England** – No objection.

39. **Sport England** – No comments to officer (development does not fall within either out statutory remit or non-statutory remit).

40. **Sustainable Drainage Engineer** – No objection.

Recommend conditions requiring a surface water drainage scheme for the site, a foul water drainage scheme for the site and details for the long term maintenance arrangements for the surface water drainage system.

41. **Sustainability Officer** – No objection.

Recommend conditions requiring an Energy Statement demonstrating a minimum 10% reduction in carbon emissions and water efficiency.

42. **The Magog Trust** – No objection.

The Magog Trust have been approached by Axis Land Partnerships with regard to managing the informal natural open space, should the planning application for a retirement village and associated countryside park in Stapleford, be given approval. We have expressed serious interest in managing this piece of land in that event and are in discussion with Axis Land Partnerships.

The proposal falls within the aims of The Cambridgeshire Green Infrastructure Strategy (2011) which provides an overarching strategy for Cambridgeshire and highlights existing natural green space and opportunities for creating, linking, and improving it, including the major ecological networks of the Gog Magog Hills.

43. **Trees Officer** – No objection.

Documents including hedgerow or woodland management plan, detailed tree protection, detailed tree planning and landscape plans, tree planting

specification and detailed tree establishment and management plan should be provided with any reserved matters application.

Raises some queries over the boundary planting, block planting, integration of CAM route and information on urban part of the site. These matters can be dealt with by way of condition or submission of appropriate details as part of any reserved matters application

44. **Transport Assessment Team** – No objection.

Recommend conditions to secure a Travel Plan and provisions to create further accessibility by way of an existing separate link onto Gog Magog Way to the south of the site.

45. **Urban Design Officer** – Objection.

The proposed massing and height and the general approach to the layout configuration would result in a poor site layout and an adversely impact upon the openness and the rural character of the site's wider area. This is contrary to Paragraph 127 of the 'National Planning Policy Framework' (2019) (NPPF) and Policy HQ/1 of the 'South Cambridgeshire Local Plan' (2018).

Layout for Areas A & B look overdeveloped while the layout arrangement with right angles within the site gives an urban approach which would fail to reflect the character of the area. Concerns over single aspect rooms and whether the developer has fully considered the constraint/opportunity of the potential CAM route.

The development seems excessively large in terms of its bulky mass and height of 7-12 metres in relation to its surroundings and would be out of character, appearing overbearing and will act as a barrier and block the view out of the surrounding sites as well as openness of the site.

Indicative masterplan shows an overprovision of parking spaces and would result in cars dominating the public realm.

Concerns over insufficient private and communal amenity spaces within areas A and B.

## **Representations from members of the public**

46. 64 representations have been received to the application, 54 raising objection, eight commenting in support and two providing neutral comment. Full redacted versions of these comments can be found on the Council's website.

47. In summary the following objections have been raised:

Biodiversity

- Impact on bats hunting.

- Site of biodiversity or geological importance lost.

#### Character / Landscape

- Carving up land of agricultural and archaeological value will change the character of the area.
- Chalk down land is relatively uncommon throughout the UK and should not be built on.
- Countryside enhancement strategies for the site would not be required if it was left as it currently is.
- Density and height of development is out of keeping.
- Destroy rural setting / rural character.
- Diminish public views across open land.
- Highly visible, significant erosion of landscape.
- Loss of unspoiled landscape.
- Negative impact on rural nature of important Gog Magog hills.
- Negative visual impact on entrance to village, irrevocably altering the eastern boundary of the village.
- Out of proportion to size and density of Stapleford.
- Overdevelopment.

#### Countryside Park

- Adjacent busway would not be conducive to the need for serenity in the 'country park'.
- Countryside park is a risible attempt to mitigate, cannot ignore significant size of development (12 acres of housing).
- Creation of a large enclosed pocket of land which will be target for further development.
- Loss of green belt too higher price to pay for a country park.
- No mention of how country park will be managed and maintained.
- No need for a further country park; two country parks already.
- No parking for country park visitors.
- Sweetener in lieu of development Green Belt land.
- Too far away from village centres for park to be appreciated fully.

#### Flood Risk & Drainage

- Increased flood risk.
- Increased pressure on water / sewage.
- Major draw on the aquifer underneath us which is already being depleted.

#### Green Belt / Countryside

- Blurring of soft rural edge.
- Destruction of fields for development.
- Encroaching markedly on rolling chalk hills loses distinct separation between villages.
- Erosion of Green Belt
- Important to preserve green spaces (Covid-19 lesson).
- Inappropriate development in the Green Belt and countryside.
- Lack of a very special circumstances case.
- Loss of open space.
- Not a Green Belt exception.

- Open view and aspect of green belt land would be irrevocably lost.
- Outside village framework.
- Precedent for future Green Belt development.
- Slowly losing village status and becoming a suburb of Cambridge.
- South Cambridgeshire is far from over-blessed with greenbelt land – ranked 109 out of 186 local authorities that have greenbelt land, with just 26% of available land so designated.

#### Highway Safety & Parking

- Car dependant, increased pollution.
- Inaccuracies in transport assessment for average road width on Haverhill Road.
- Increase in on-street parking.
- Increased accident risk.
- Increased traffic flow and congestion.
- Low parking capacity.

#### Residential Amenity

- Loss of light.
- Loss of privacy.
- Overbearing impact.

#### Retirement Village (use)

- Ancillary uses can be found in village and surrounding villages.
- Caters for many residents who have no connection with Stapleford or Great Shelford; does not meet local demand.
- Does not provide much needed affordable housing.
- Expensive / high service charge.
- Insufficient demand for high-end retirement living.
- No requirement as local retirement home in Stapleford has many vacancies.
- Only "some" of the onsite facilities are likely to be available to non-residents.

#### Sustainability

- Distance from village communities and facilities.
- Lack of public transport links.
- Strain on doctors and dentists.

#### Other Matters

- Already a planned retirement complex in great Shelford and an existing retirement complex.
- Cynical developer consultation.
- Expect demanding conditions (i.e. renewables, sewer improvements).
- General location already assessed and dismissed for development within the last local plan.
- Health impact (during construction).
- Impact on heritage assets.

- Locals do not want this development at this site and have not incorporated this site in their Neighbourhood Plans and do not welcome this development.
- Loss of agricultural land.
- New housing in Stapleford should be low cost affordable housing.
- Noise impact.
- Noise nuisance from autonomous bus.
- Still discussion about GCP busway.
- The alternative sites assessment is not sufficiently robust and assessed only a narrow range of 'alternative' sites.
- The applicant has not sufficiently demonstrated that there is a specific local need in Stapleford which outweighs the adopted Local Plan. The district-wide assessment clearly indicates that the proposals can also be delivered in an alternative, more sustainable location elsewhere within the district, including elsewhere within the Rural Centre itself.
- Unlikely to release housing stock (cost of retirement village, cost of local housing).

48. In summary the following points of support have been raised:

- Allows families to down-size.
- Buildings should be limited to 2-storey.
- Countryside park should be transferred into the ownership of the Gog Magog Trust.
- Countryside park will provide useful link between Haverhill Road and Hinton Way and improve access to Magog Down and Wandlebury.
- Economic benefits.
- Enhance an already thriving village community
- Free up housing stock
- It should be a requirement of any planning approval that the managers of the retirement complex must provide communal transport for residents to local village centres.
- Land used for community.
- New facilities and open space.
- Provision of essential accommodation with associated support services.
- Retirement village should ideally contain affordable units.

49. In summary the following neutral comments have been raised:

- Parking restrictions should be considered near country park to prevent significant congestion.
- Welcome a country park but would object if cannot be ensured.

## **The site and its surroundings**

50. The site is located outside of the development framework boundary of Stapleford, in the Green Belt and open countryside. The south-eastern boundary of the site is approximately 60 metres from the edge of Stapleford development framework. The site is located in an area designated as improved landscaping under the Cambridge Southern Fringe Area Action Plan.

51. Stapleford Conservation Area is approximately 350 metres south west of the site. The nearest listed buildings are no.57 Bar Lane, a Grade II listed building located approximately 240 metres south of the site, and Middlefield and Garden Wall, Haverhill Road, a Grade II\* listed building located approximately 130 metres north of the site. The Church of St Andrew, a Grade II\* listed building is located approximately 550 metres to the south west of the site. To the north east of the site are several scheduled ancient monuments; the Iron Age hill-fort at Wandlebury, a Bronze Age barrow and a Neolithic causewayed enclosure at Little Trees Hill and a Bronze Age tumulus at Wormwood Hill with a Neolithic longbarrow. The nearest of these is Little Trees Hill, approximately 650 metres from site.
52. The site lies within flood zone 1 (low risk) with some small areas of surface water flooding identified adjacent to Chalk Hill, Gog Magog Way and Haverhill Road.
53. The site is formed from an L-shaped parcel of agricultural land coving an area of approximately 24.37 hectares between Hinton Way and Haverhill Road, which form the north-west and south-east boundaries of the site. Most of the south-west boundary of the site abuts open agricultural land while the southern-most portion abuts the rear boundaries of existing residential properties of Gog Magog Way and Chalk Hill. The north-eastern boundary of the site abuts a farm track and mix of paddocks, garden land and agricultural land.
54. The site is used for arable agricultural uses and as such there is little existing vegetation within the site, aside from a small area of tree planting towards the sites northern edge. Most of the boundaries are formed by mature hedgerows. The topography of the site rises to the north with the lowest point of the site being approximately 20 metres above ordnance datum (AOD) rising to a highest point of approximately 43 metres AOD over a 600-metre distance.

## **The proposal**

55. This application seeks outline planning for the development of land for a retirement care village in Use Class C2 comprising housing with care, communal health, wellbeing and leisure facilities, public open space, landscaping, car parking, access and associated development and public access countryside park with all matters reserved except for access.

## **Retirement Care Village – Context**

56. The following context to a retirement care village is taken in part from several documents which have been submitted in support of the outline application, including the Planning Statement and Planning Needs Assessment.
57. The application seeks outline consent for use class C2 accommodation (residential institution) in the form of a retirement care village.
58. The Use Classes Order defines a C2 Use as “use for the provision of residential accommodation and care to people in need of care.” Care is defined in the

Order as “personal care for people in need of such care by reason of old age, disablement, past or present dependence on alcohol or drugs, or past or present mental disorder and treatment.”

59. National policy is clear that housing should be provided that addresses the needs of groups with specific housing requirements including specialist accommodation for a group of people with specific needs (such as purpose-built accommodation for the elderly). The developer has indicated that a registered care provider is on board.

60. Annex 2 (glossary) of the National Planning Policy Framework defines ‘older people’ as:

People over or approaching retirement age, including the active, newly-retired through to the very frail elderly; and whose housing needs can encompass accessible, adaptable general needs housing through to the full range of retirement and specialised housing for those with support or care needs.

61. A retirement care village provides a range of homes to rent and to buy, with additional care facilities to support those who need it. The retirement care village model offers a combination of independence and security where older people can continue to live within their own space, supported by a flexible package of personal care services and activities. The model proposed within the application comprises the combination of a full care facility (i.e. a care home) and retirement accommodation with care linked packages. Such packages are often referred to as ‘assisted living’ or ‘extra care’.

62. Assisted Living or Extra Care Accommodation can provide a range of services to meet individual care needs and cater to the level of dependence required. Elderly people may wish to downsize from family housing but are not in need of the kind of intensive care arrangements that other elderly people may need. The level of care can adapt as the needs of the occupants change, enabling the elderly to buy in care packages to suit their needs rather than paying the fixed costs of a nursing home or residential care home.

63. Alongside integrating with local communities, retirement care villages are provided with on-site facilities, which are available to the public as well as the occupants. Such facilities can include dining, leisure, gym, swimming pool, hairdressers, activity rooms and gardens with outdoor recreation).

## **Planning Assessment**

64. The application is an outline application with all matters reserved except for access; matters of appearance, landscaping, layout and scale are reserved.

65. The Town and Country Planning (Development Management Procedure) (England) Order 2015 provides a definition of what each matters means in practice:

“access”, in relation to reserved matters, means the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network; where “site” means the site or part of the site in respect of which outline planning permission is granted or, as the case may be, in respect of which an application for such a permission has been made;

66. The NPPG offers the following guidance concerning outline planning applications, which is relevant to the assessment of the application.

What details need to be submitted with an outline planning application?

Information about the proposed use or uses, and the amount of development proposed for each use, is necessary to allow consideration of an application for outline planning permission.

Under article 5(3) of the Development Management Procedure Order 2015, an application for outline planning permission must also indicate the area or areas where access points to the development will be situated, even if access has been reserved.

Paragraph: 034 Reference ID: 14-034-20140306  
Revision date: 06 03 2014

Can details of reserved matters be submitted with an outline application?

An applicant can choose to submit details of any of the reserved matters as part of an outline application. Unless the applicant has indicated that those details are submitted “for illustrative purposes only” (or has otherwise indicated that they are not formally part of the application), the local planning authority must treat them as part of the development in respect of which the application is being made; the local planning authority cannot reserve that matter by condition for subsequent approval.

Paragraph: 035 Reference ID: 14-035-20140306  
Revision date: 06 03 2014

67. Alongside the site location plan (J0027450\_011) which identified the extent of the site, the application is supported by several parameter plans. Paragraph 6.4 of the Planning Statement details that the parameters plans define the parameters of the development proposals and would provide the framework for subsequent reserved matters applications to follow. These plans are not marked “illustrative” or “indicative”.

- Parameter Plan: Land Use and Building Heights (J0027450\_008).
- Parameter Plan: Landscape (J0027450\_009)
- Parameter Plan: Access and movement (J0027450\_010)

68. An illustrative masterplan (J0027450\_005\_Rev A) has also been submitted to support the application to illustrate how a development of the nature proposed

could be delivered within the site in line with the parameters set out in the Parameter Plans.

69. Part 16 of the Application Form cites the development of 17,825sqm of floorspace under use class C2-Residential Institutions.
70. The key issues to consider in the determination of this application relate to:
- Whether the proposal would represent inappropriate development in principle in the Green Belt;
  - Whether the proposal would result in any other harm in terms of
    - i. Countryside Impact
    - ii. Green Belt: openness and purposes
    - iii. Character and Appearance of the Area
    - iv. Landscape
    - v. Biodiversity
    - vi. Trees
    - vii. Highway Safety and Parking
    - viii. Flood Risk and Drainage
    - ix. Heritage Assets
    - x. Residential Amenity
    - xi. Renewables / Climate Change
    - xii. Contaminated Land
    - xiii. Loss of Agricultural Land
    - xiv. Other Matters; and,
  - Whether there are any very special circumstances that would clearly outweigh harm through inappropriateness and any other harm identified to justify the development.

### **Principle of Development**

71. The site is located outside of the development framework boundary of Stapleford, in the Green Belt and open countryside.
72. Policy S/4 of the Local Plan sets out that that a Green Belt will be maintained around Cambridge that will define the extent of the urban area. New development in the Green Belt will only be approved in accordance with Green Belt policy in the National Planning Policy Framework (NPPF).
73. Chapter 13 of the NPPF deals with protecting Green Belt land.
74. Paragraph 133 of the NPPF states that the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
75. Paragraph 134 of the NPPF sets out that the Green Belt serves five purposes:
- a) to check the unrestricted sprawl of large built-up areas;
  - b) to prevent neighbouring towns merging into one another;
  - c) to assist in safeguarding the countryside from encroachment;

- d) to preserve the setting and special character of historic towns; and
  - e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
76. Paragraph 141 of the NPPF states that once Green Belts have been defined, local planning authorities should plan positively to enhance their beneficial use, such as looking for opportunities to provide access; to provide opportunities for outdoor sport and recreation; to retain and enhance landscapes, visual amenity and biodiversity; or to improve damaged and derelict land.
77. Paragraph 143 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
78. Paragraph 144 of the NPPF states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
79. Paragraph 145 of the NPPF states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:
- a) buildings for agriculture and forestry;
  - b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;
  - c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
  - d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
  - e) limited infilling in villages;
  - f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and
  - g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
    - not have a greater impact on the openness of the Green Belt than the existing development; or
    - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.
80. Paragraph 146 of the NPPF states that certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These are:

- a) mineral extraction;
  - b) engineering operations;
  - c) local transport infrastructure which can demonstrate a requirement for a Green Belt location;
  - d) the re-use of buildings provided that the buildings are of permanent and substantial construction;
  - e) material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds); and development brought forward under a Community Right to Build Order or Neighbourhood Development Order.
81. The existing site comprises relatively open arable agricultural land bound by mature hedgerows, situated on the northern edge of Stapleford. The site is formed from an L-shaped parcel of land coving an area of approximately 24.37 hectares between Hinton Way and Haverhill Road with land levels rising to the north. The site is greenfield; no part of the site could be considered brownfield land.
82. The application seeks outline planning consent for the development of land for a retirement care village comprising housing with care, communal health, wellbeing and leisure facilities, public open space, landscaping, car parking, access and associated development and public access countryside park.
83. Although the application must be considered as a whole, there are two distinct elements to consider in Green Belt terms; the development of a retirement care village and the development of a countryside park.
84. Paragraphs 145 and 146 of the NPPF clearly define development that should not be regarded as inappropriate within the Green Belt. The retirement care village would not align with any of these definitions and would therefore comprise inappropriate development.
85. The creation of a countryside park would represent appropriate development, in line with paragraphs 141 and 146(e) of the NPPF.
86. The proposal therefore constitutes inappropriate development.
87. The NPPF makes it clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The NPPF is also clear that, when considering any application, planning authorities should ensure that substantial weight is given to any harm to the Green Belt. The onus is on the applicant to demonstrate why permission should be granted, and the NPPF sets out that that 'very special circumstances' will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other material considerations.
88. It is therefore necessary to consider whether the development of the retirement care village results in any further harm, in addition to that caused by inappropriateness.

## **Countryside Impact**

89. Policy S/7 of the Local Plan states that outside development frameworks, only allocations within Neighbourhood Plans that have come into force and development for agriculture, horticulture, forestry, outdoor recreation and other uses which need to be located in the countryside or where supported by other policies in this plan will be permitted.
90. No Neighbourhood plans are in force that would be applicable to this application.
91. There are no other Local Plan policies which would support the development of a retirement care village outside of a development framework boundary.
92. The proposal is therefore contrary to Policy S/7 of the Local Plan.
93. A key objective of Policy S/7 is to ensure that the countryside is protected from gradual encroachment that would result in urban sprawl and urbanisation of the countryside. The impact of the development on the countryside is explored more fully below.

## **Green Belt Openness and Purposes**

### Openness

94. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence (NPPF, paragraph 133).
95. There is however no specific definition of “openness” in the NPPF. National Planning Practice Guidance (NPPG) states that openness can have both spatial and visual aspects.
96. When considering the impact on the openness of the Green Belt, this is not affected by natural screening (i.e. trees and hedgerows) as these are not permanent features; openness means the absence of buildings or development. When openness is reduced, harm takes place regardless of whether it is visible or witnessed. Measures in mitigation can never completely remove the harm since a development that is wholly invisible to the eye remains, by definition, adverse to openness.
97. The application is in outline only with all matters reserved apart from access. The application does not provide full details of appearance, landscaping, layout and scale associated to the retirement care village for approval at this stage. Nonetheless, there are several supporting plans and documents which provide some context to the proposed retirement care village.

98. The application is supported by a Parameter Plan for Land Use and Building Heights (J0027450\_008). The Parameter Plan, which is not marked “illustrative” or “indicative”, shows a 3.12-hectare area of built development for the retirement care village with a further 1.8 hectares of associated amenity open space. Within the area of built development, the plan sets out three scales to the buildings within the complex comprising 2-storey (ridge height up to 12m), 2-storey (ridge height up to 8m) and single storey (ridge height up to 7m).
99. The application is also supported by a plan titled ‘Illustrative Masterplan with Countryside Park’ (J0027450\_005\_Rev A). Although illustrative only, the plan provides a sense of how the development could be accommodated on the site.
100. Part 16 of the application form cites the development of 17,825sqm of floorspace under use class C2-Residential Institutions. The Planning Statement submitted in support of the application sets out that the indicative scheme presented suggests that the scheme could provide a central care home of up to 110 bed spaces/rooms/units with associated facilities, up to 110 retirement dwellings with care link packages, with up to 17,825sqm proposed floor space overall.
101. Notwithstanding the fact that the application is in outline form with details of appearance, landscaping, layout and scale reserved, it is evident that the proposed development of a retirement care village would introduce a significant amount of built form onto a site currently absent of buildings or development. By virtue of the introduction of a built development on undeveloped land, the retirement care village would inevitably reduce openness which the NPPF describes as an essential characteristic of the Green Belt.
102. The proposed retirement care village would have a substantial and detrimental impact on the openness of the site in both a spatial sense, through the introduction of a significant built form of development, and a visual sense, through the loss of greenness and the sight of a substantial urban form.
103. Officers consider that the spatial and visual harm to openness would constitute significant harm to the Green Belt, in addition to inappropriateness.

#### Purposes

104. As defined by paragraph 134 of the NPPF, the Green Belt serves five purposes: (a) to check the unrestricted sprawl of large built-up areas; (b) to prevent neighbouring towns merging into one another; (c) to assist in safeguarding the countryside from encroachment; (d) to preserve the setting and special character of historic towns; and (e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
105. Fundamentally, the development of a retirement care village would have a significant urbanising effect on the site that cannot be said to safeguard the countryside from encroachment. Thus, the development of a retirement care village would be in direct conflict with the purpose of safeguarding the countryside from encroachment by replacing an open and undeveloped site with

a significant and extensive built form of development. Accordingly, the proposal would result in the expanse of buildings sprawling across the site which is currently absent of buildings or development providing further conflict.

106. Officers consider that there is clear and significant conflict with Green Belt purposes, in addition to inappropriateness.

#### Conclusion

107. The development of a retirement care village would result in a substantial loss of openness and would conflict with the purposes of the Green Belt.
108. The development would therefore be contrary to accord Policy S/4 of the Local Plan and the NPPF.

#### **Character and Appearance of the Area**

109. The site is located on the north eastern edge of the village of Stapleford, detached from the development framework boundary, in the Green Belt and open countryside.
110. The site is formed from an L-shaped parcel of agricultural land between Hinton Way and Haverhill Road, bound typically by mature hedgerows, with the topography of the site rising to the north.
111. The area is distinctly rural in character with wide open views of the countryside readily available from the public realm. The existing agricultural and undeveloped nature of the site contributes positively to the rural setting and character of the edge of Stapleford village.
112. The residential development towards the village edge is generally more spacious, predominantly two storeys in scale, within a setting that forms a strong visual tie between the surrounding open farmland / countryside and the village of Stapleford. The existing development presents a relatively soft rural edge to the village which does not significantly interrupt wide open views of the surrounding countryside, largely maintaining the vast rural vista that is available on the village edge; these aspects all contribute positively to the rural character of the area.
113. There are residential properties immediately to the south of the site which comprise a terrace of three single storey properties to the west of Haverhill Road. Development along the northern edge of Gog Magog Way comprises a mix of two storey detached, semi-detached and terraced properties, with two storey terraced properties forming the development on Chalk Hill. These properties are located outside of the development framework boundary of Stapleford and largely within the Green Belt. These properties were developed as rural exception sites (a form of development principally considered appropriate development in Green Belt terms).

114. The areas rural character is enhanced further by the presence of Stapleford recreation ground, allotments and Greenhedge Farm located to the south of the site beyond Gog Magog Way, adjacent to existing residential development. This central area of open space forms a relatively open and undeveloped parcel of land covering an area of approximately 9.25 hectares that is lined by mature trees and low-level post and rail fencing. A portion of this area is allocated for open space under Policy SC/1(1a) of the Local Plan to meet local need for open space as an extension to the existing recreation ground (approximately 1.42 hectares).
115. The buildings within Greenhedge Farm are predominantly single storey buildings of an agricultural form and appearance, with a central two storey residential building. Stapleford pavilion, a single storey building, is also located within this area. None of these buildings are particularly prominent within the wider area of open space or from the surrounding public realm.
116. It is notable that the Green Belt encompasses this area of open space, which acts as a 'green lung' into the village and a positive characteristic to the softer rural edge and character of the village. Were it not for the development of the two rural exception sites to the north of the recreation ground, which are relatively modest in the scale, siting and proportion, the Green Belt and countryside would sweep uninterrupted into the village. Nonetheless, the appreciation of the open countryside beyond the northern and eastern boundaries of the village is clear.
117. The application has been subject to formal consultation with the Council's Urban Design Officer, who raises objection to the proposed development. Officers also acknowledge the objections of Stapleford Parish Council and third-party representations where objection is raised to the impact of the development on the character of the area. Officers note that the objections raised begin to pick up details which are reserved at this stage.
118. While the application is in outline form, the NPPG details that information about the proposed use or uses, and the amount of development proposed for each use, is necessary to allow consideration of an application for outline planning permission (Paragraph: 034 Reference ID: 14-034-20140306). Officers are therefore guided by the supporting information that has been submitted with the application, which is taken to be a fair representation of how the development could be accommodated, in order to assess the retirement care village and its potential impact on the character of the area.
119. The Planning Statement sets out that the retirement care village would comprise a central care home of up to 110 bed spaces/rooms/units with associated facilities and up to 110 residential dwellings with care link packages, with up to 17,825sqm proposed floor space overall; this floor space is reflected in Part 16 of the Application Form.
120. The Parameters Plan for Land Use and Building Heights, which the Planning Statement details would provide the framework for subsequent reserved matters applications, sets out how the development would be likely be arranged

over a 3.12 hectare area of built form across three scales comprising 2-storey (ridge height up to 12m), 2-storey (ridge height up to 8m) and single storey (ridge height up to 7m), with the larger buildings towards the southern portion of the site. The concept is visualised on the illustrative masterplan which gives a strong sense of the likely development, although officers note that this plan is for illustrative purposes only.

121. In terms of density, the development of up to 220 units over an area of 3.12 hectares would equate to 70 units per hectare, not including any associated facilities which would also form part of the retirement care village.
122. In the context of adopted policy, Policy H/8 of the Local Plan sets out that housing developments should achieve an average net density of 30 dwellings per hectare, which may vary where justified by the character of the locality, the scale of development, or other local circumstances. Although the development is not for C3-residential use, adopted policy provides some context for the likely density of development proposed when considering the character of the area, albeit the arrangements of up to 110 care home units (i.e. bedrooms) heightens the density being provided as a care home building (or buildings) rather than individual units with their own private amenity space.
123. Officers consider that the retirement care village would result in a dense urban development on the edge of a rural village. It cannot be said that a development of that nature would be justified by the character of the locality and that the development would therefore be at odds with its wider surroundings and significantly out of keeping with the character of the area.
124. The supporting information indicates that development is also likely to be significant in terms of its scale and form. The Parameter Plan indicates ridge heights ranging from 7 metres up to 12 metres. Despite the Parameters Plan quoting a '2-storey' scale, officers strongly question whether a ridge of up to 12 metres could be considered two storeys and whether 7-metres would constitute 'single storey'.
125. The existing development to the south of the site is predominately of a two storey scale with ridge heights estimated to range between 7 and 8.5 metres (based on a review of nearby historic planning consents). The arrangements set out on the Parameter Plan would therefore likely eclipse the scale of existing development in the surrounding area, noting that topography of the site rises to the north.
126. Officers acknowledge that the matters of scale and layout are reserved. However, given the specific reference to 17,825sqm of floor space in the Application Form, it is difficult to see how the development could be accommodated on the site in a manner that departs significantly from the details set out on the Parameter Plan(s) submitted in support of the application. Again, officers note that the Planning Statement details that the Parameter Plans would provide the framework for subsequent reserved matters applications (i.e. these are likely expected to form approved plans as part of any consent).

127. Clearly the retirement care village is a 'major development' and by its nature would comprise a considerable amount of built form, noting how such a development would operate. Consequently, there would be a marked difference between the character of the development, which would likely be of a substantial urban form, and that of its surroundings, creating a significant and harmful contrast with the rural character of the village.
128. Although landscaping measures are proposed around the retirement care village, noting that landscape is also a reserved matter, they would not completely mask the development from the public realm, as acknowledged in the Landscape and Visual Appraisal submitted in support of the application (considered in more detail later in this report).
129. Officers consider that the retirement care village would result in a significant visual intrusion into the rural edge of Stapleford village that would fail to be compatible with its location, resulting in an urbanised site which would be out of step with its wider surroundings.
130. Overall, the development of a retirement care village on the site is not considered to reflect or respect the strong rural characteristics of Stapleford or respond to the sites sensitive edge of village and countryside location. In particular, the development would inevitably introduce a distinctly urban and substantial form of development on land which is currently open, absent of built form, and contributes positively to the rural character of the area. The development would be out of keeping with the local vernacular, appearing as an uncharacteristically dense, incongruous and extensive urban form of development to the village edge.
131. The retirement care village would result in significant harm to the character and appearance of the area.
132. The proposal would therefore be contrary to Policies HQ/1 and NH/8 of the Local Plan and NPPF guidance.

## **Landscape**

133. The site is located outside of Stapleford development framework boundary, in the Green Belt and countryside.
134. The site is not situated in an area with any national or local designations and as such does not fall within the scope of valued landscapes under Paragraph 170 of the NPPF.
135. The site is located within the National Character Area '87. East Anglian Chalk'. The area has a strong rural character with a distinctive landform of smooth rolling chalk hills and gently undulating chalk plateau with settlement focused in small towns and in villages. Villages in the area typically have strong historic linear forms abutted by fields or woodlands that contribute to the rural character of the area.

136. The site is used for arable agricultural uses and as such there is little existing vegetation within the site, aside from a small area of tree planting towards the sites northern edge. Most of the boundaries are formed by mature hedgerows with occasional trees. The topography of the site rises to the north.
137. The application is supported by a Landscape and Visual Appraisal (LVA) (The Landscape Partnership, March 2020). Although the application is in outline form only, the LVA sets out in 'Part 6 Proposals', that the submitted Parameter Plans and Illustrative Masterplan which support the application provide the basis for the scheme that has been assessed as part of the LVA.
138. The LVA sets out in paragraph 6.6 that the heights and scale of the units within the development step down across the site from the lower lying landform to the south-west up the relatively higher north-east part of the development. The main care home is therefore located to the lower ground and would be up to 12 metres in height, two storey apartments are located to the centre of the site at up to 8 metre heights while one and a half storey apartments and bungalows up to 7 metres in height are located to the naturally higher parts of the site.
139. Paragraph 6.7 of the LVA details that the retirement care village would include new structural woodland planting to help visually contain the new built forms of development, publically accessible recreation routes into the site from Gog Magog Way and vehicular access off Haverhill Road. There would be retention of the majority of the roadside hedgerow to Haverhill Road aside from the point of access with supplementary tree planting to take place within the site and landscaped areas between the development and adjacent properties.
140. In terms of the effects on site features, the LVA concludes that the retirement care village would result in limited change to the topography of the site, that there would be minimal loss of existing vegetation as this largely comprises hedges and occasional trees to the site perimeter and that there would be a complete change from the arable land use.
141. For the impact on visual effects, the LVA concludes that near to the site the proposed development would be clear from Haverhill Road above the hedges and at the new site entrance. At closer locations there would be up to a major/moderate adverse effect at year 1, reduced to moderate/minor adverse depending on locations as the proposed structure planting matures. There would be no views of the retirement care village from Hinton Way due to the containing landform and vegetation, while views from Stapleford are limited, where the maximum levels of effect even at year 1 are considered minor adverse.
142. The LVA details that the development would be clearly visible looking north-west from a right of way to the south-east of the site, extending the village limit to a degree and resulting in a moderate adverse effect at year 1 then reducing to minor adverse by year 15 with the growth of trees on the site. There would be an elevated view of the development from an area of accessible open space, Magog Down to the north-east. Receptors at this location are assessed as being high sensitivity and there would be a medium magnitude of change at

year 1 with a major/moderate adverse effect, reducing to moderate adverse by year 15 with the establishment of the woodland blocks proposed within and around the site.

143. The application has been subject to formal consultation with the Council's Landscape Officer who raises objection to the retirement care village. Officers also acknowledge the objections of Stapleford Parish Council and third-party representations where objection is raised to the impact of the landscape.
144. The Council's Landscape Officer disagrees with the assessment of the LVA that the development with landscape mitigation measures after a 1-year period would be major/moderate adverse effect and after a 15-year period would be moderate neutral with reference to development of a retirement care village on agricultural land being contrary to the Statement of Environments Opportunity (SEO) as outlined within National Character Area 87. These include:
- SEO 1: Maintain sustainable but productive agricultural land use, while expanding and connecting the chalkland assemblage of semi-natural grasslands, for example by sensitive management of road verges and extending buffer strips along field margins, to benefit soil and water quality, reduce soil erosion, strengthen landscape character and enhance biodiversity and pollinator networks., while expanding and connecting semi-natural.
  - SEO 3: Conserve and promote the landscape character, geodiversity, historic environment and historical assets of the chalklands, including the open views of undulating chalkland, large rectilinear field pattern and linear ditches, strong equine association and the Icknield Way prehistoric route. Improve opportunities to enhance people's enjoyment of the area while protecting levels of tranquillity.
  - SEO 4: Conserve the settlement character and create or enhance sustainable urban drainage systems and green infrastructure within existing and new developments, particularly in relation to the urban fringe and growth areas such as south-east Cambridge, to provide recreation opportunities, increase soil and water quality and enhance landscape character.
145. The topography of the site would be elevated above existing development to the south. Due to the undulating nature of the site's surroundings, together with the in fact that the development would inevitably introduce a distinctly urban and substantial form of development on land which is currently open, the development would be visible from the wider public realm, particularly from the south east and north east.
146. The retirement care village would result in a major change to the existing landscape character, particularly upon the edge of the village, by virtue of the permanent removal of an open agricultural field and the introduction of a new and prominent urban feature in the landscape. Such a development would do little to conserve and promote the landscape character, including the open

views of undulating chalkland (SEO 3) or to conserve the settlement character (SEO 4).

147. Although landscape mitigation measures are proposed around the retirement care village, again noting that landscape is a reserved matter, such measures would not completely mask the development from the public realm, as acknowledged in the LVA. Much reliance would be placed on the boundary vegetation to screen the development and soften the juncture between the built form of development and the agricultural fields and countryside beyond. Even with landscape mitigation measures officers consider that the harm to the landscape arising from a substantial built form would be significantly adverse.
148. Officers also acknowledge the context of the Cambridge Southern Fringe Area Action Plan which identifies the area in which the application is located as an element of the southern fringe landscape and is designated as an area of improved landscaping. The development of a retirement care village would clearly conflict with the intent of an area of improved landscaping.
149. Officers consider that the retirement care village would result in a significant visual intrusion into the landscape and soft rural edge of the village which would do little to respect, retain or enhance the local character and the distinctiveness of the local landscape.
150. The retirement care village would result in significant adverse harm to landscape character.
151. The proposal would therefore be contrary to Policies S/7, HQ/1, NH/2 and NH/8 of the Local Plan and NPPF guidance.

## **Biodiversity**

152. The application is supported by an Ecology Report (MHE Consulting, March 2020) and an Ecology Response document following initial comments from the Council's Ecology Officer (MHE Consulting October 2020).
153. The report sets out that the retirement care village would result in the loss of predominately arable land, with minor losses of hedgerow, and that the application site is generally low in ecological value (as the vast majority is arable). The report notes that this element of the site is unsuitable for amphibians, lacking permanent cover. Integrated swift boxes are to be incorporated into the buildings on the retirement village site while sparrow terraces will be erected under the eaves of ancillary buildings within the retirement complex.
154. The application has been subject to formal consultation with the Council's Ecology Officer who raises no objection to the proposed development following the response document to address initial concerns/queries, subject to three conditions.

155. The first would require the submission of a Construction Ecological Management Plan (CEcMP) prior to, or concurrently with, the submission of the first reserved matters application, to protect existing habitats and protected species on site and to enhance the site for biodiversity. The CEcMP would require the submission of details including a risk assessment of potentially damaging construction activities, practical measures to avoid or reduce impacts during construction, the location and timings of sensitive works to avoid harm to biodiversity features and the use of protective fences, exclusion barriers and warning signs if applicable.
156. The second would require the submission of a Landscape and Ecological Management Plan (LEMP) prior to, or concurrently with, the submission of the first reserved matters application, to provide habitat for wildlife and enhance the require the submission of details including aims and objectives for management (including how a minimum of 10% in biodiversity net gain will be achieved) and ongoing monitoring and remedial measures.
157. The final condition would require a lighting design strategy for biodiversity to be submitted prior to occupation of the development in order to clearly demonstrated that areas to be lit will not disturb or prevent the species (i.e. bats) using their territory or having access to their breeding sites and resting places.
158. Officers are satisfied that, subject to the imposition of conditions requiring a CEcMP, LEMP and lighting design, the development of a retirement care village would be acceptable in terms of its impact on biodiversity.
159. The proposal would therefore comply with Policy NH/4 of the Local Plan.

## **Trees**

160. The application is supported by a Tree Survey & Preliminary Arboricultural Impact Assessment Plan (drawing number LSDP 1443.01, Land & Sculpture Design Partnership). The Plan highlights the general absence of any significant planting within the site, aside from a small area of tree planting towards the sites northern edge, and that most of the boundaries are formed by mature hedgerows with some trees. The Plan illustrates a section of hedgerow along the eastern edge of the retirement care village adjacent to Haverhill Road which would be removed / cut as part of the development, along with several areas of root protection.
161. The application has been subject to formal consultation with the Council's Trees Officer who raises no objection to the proposal, noting that there are no trees on or adjacent to the site that have any statutory protection and that there are hedgerows on or adjacent to the site which may qualify as 'important hedgerows' under the Hedgerow Regulations (1997) and/or have no statutory protection.
162. The Council's Trees Officer provides a list of recommended documents that would be required to support any reserved matters application with further

guidance on what these documents should incorporate through several queries raised to the proposal. Officers note from the information provided that additional tree planting would be incorporated into the development, full details of which would be provided as part of any reserved matters application.

163. Based on the information provided to support the outline application, officers are satisfied that the proposed development would not result in harm to trees.
164. The proposal would therefore comply with Policy NH/4 of the Local Plan.

### **Highway Safety and Parking**

165. Access is a matter included within the outline application for consideration.
166. The application is supported by a parameter plan for access and movement (drawing number J0027450\_010). The plan illustrates a single main vehicular access to the retirement care village from Haverhill Road and a pedestrian access from Gog Magog Way. The application is also supported by a Transport Assessment and Framework Travel Plan (SLR, March 2020) and Technical Note (SLR, November 2020).
167. Access to the site would be taken directly from Haverhill Road on a section of the public highway that is subject to a 40mph speed limit. There is an informal footway running along the eastern side of Haverhill Road which extends from the edge Stapleford village north as far as the junction to Magog Down.
168. Drawing number 406.09693.00002.14.H011.1 (Access Assessment Option 2) contained within the Technical Note (SLR, November 2020) illustrates how the development would achieve the visibility splays required, being 2.4 metres by 160 metres from and along the highway boundary. The drawing also illustrates a new footway to link to the existing footway on the northern edge of the village and an uncontrolled pedestrian crossing facility across Haverhill Road to tie into the existing footway on the eastern side of the highway to the north of the proposed access.
169. As set out in the Transport Assessment and Technical Note (SLR), the TRICS database has been used to predict the multi-modal trip generation of the retirement care village. The data forecasts that the retirement care village would generate 31 two-way movements in the AM peak, 38 vehicular movements in the PM peak and 575 movements in a 24-hour period. It is also forecast that most of the traffic would route to/from the north via Babraham Road A1307 / Haverhill Road junction and the development is unlikely to have any detrimental impact on the operation of local junctions.
170. The application has been subject to formal consultation with the Local Highways Authority who raise no objection to the proposal, subject to conditions for visibility splays, radius kerbs, access construction details and a traffic management plan.

171. The application has also been subject to formal consultation with the Transport Assessment Team who raise no objection to the proposal, subject to conditions for a Travel Plan and the creation of further accessibility link onto Gog Magog Way to the south of the site.
172. Officers are satisfied that, subject to the imposition of the conditions for visibility splays, radius kerbs, access construction details, a traffic management plan, creation of further accessibility to the south of the site and a Travel Plan, the development of a retirement care village would be acceptable in terms of its impact on highway safety and the highway network.
173. The proposal would therefore comply with Policies TI/2 and TI/3 of the Local Plan and paragraph 109 of the NPPF.

### **Flood Risk and Drainage**

174. The site falls within flood zone 1 and is therefore at a low risk of flooding. There are some small areas of surface water flooding identified adjacent to Chalk Hill, Gog Magog Way and Haverhill Road.
175. The application is supported by a Flood Risk Assessment and Sustainable Drainage Strategy (MTC Engineering, March 2020).
176. The assessment considers all sources of flood risk and concludes that there are no significant risks of flooding to the site. A low risk of surface water flooding in small areas of the site is identified, however, they can be dealt with through appropriate design and therefore do not give rise to any significant flooding concerns. The assessment also sets out that no specific flood resistant or resilient construction methods are required although flow paths will be maintained across the site in a southerly direction to mimic the existing situation and finished floor levels designed to ensure that water will not pool or enter buildings. The assessment details that the proposed development can be entirely drained by infiltration in line with the drainage hierarchy preference and that adequate treatment will be provided to all surface water prior to discharge by the SuDS systems.
177. The application has been subject to formal consultation with Anglian Water, the Environment Agency, the Lead Local Flood Authority and the Council's Sustainable Drainage Engineer and no objection is raised, subject to conditions.
178. The Lead Local Flood Authority note in their comments that the assessment submitted demonstrate that surface water from the proposed development can be managed through the use of permeable paving with subbase attenuation, allowing surface water to infiltrate into the ground and that swales will also be considered for surface water conveyance.
179. Both the Lead Local Food Authority and the Council's Sustainable Drainage Engineer recommend conditions to require a surface water drainage scheme for the site prior to works above slab level and details for the long-term maintenance arrangements of the surface water drainage system prior to

occupation. The conditions would ensure that the proposed development can be adequately drainage and that there is no increased flood risk on or off site resulting from the proposed development along with satisfactory maintenance of systems that are not publicly adopted, in line with policy guidance.

180. Officers are satisfied that, subject to the imposition of conditions requiring a surface water drainage scheme and associated maintenance as part of any consent, the development of a retirement care village would be acceptable in terms of flood risk and surface water drainage.
181. In terms of foul water drainage officers are satisfied that, subject to the imposition of a condition requiring a foul water drainage scheme as part of any consent, the development of a retirement care village would be acceptable.
182. The proposal would therefore comply with Policies CC/7, CC/8 and CC/9 of the Local Plan.

### **Heritage Impact**

183. Section 66 of the Planning (Listed Buildings and Conservation Area) Act 1990 requires decision-makers to pay “special regard to the desirability of preserving the (listed) building or its setting or any features of special architectural or historic interest which it possesses”.
184. Section 72 of the Planning (Listed Buildings and Conservation Area) Act 1990 requires decision-makers to pay “special attention to the desirability of preserving or enhancing the character or appearance of that area”.
185. Chapter 16 of the NPPF focuses on conserving and enhancing the historic environment.
186. In considering the potential impacts of development, paragraph 193 of the NPPF states that great weight should be given to the asset’s conservation with paragraph 194 of the NPPF detailing that any harm to, or loss of, significance should require clear and convincing justification. Paragraph 195 of the NPPF sets out that where a proposed development will lead to substantial harm to a designated heritage assets consent should be refused, unless that harm is necessary to achieve substantial public benefits that outweigh that harm or loss. Paragraph 196 of the NPPF details that where a development will lead to less than substantial harm to the significance of a designated heritage asset, that harm should be weighed against the public benefits of the proposal.
187. Paragraph 197 of the NPPF requires the effect of an application on the significance of a non-designated heritage to be taken into account. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
188. Policy NH/14 of the Local Plan sets out support for development proposals when they sustain and enhance the significance of heritage assets, including

their settings, as appropriate to their significance and in accordance with the NPPF. Policy HQ/1 of the Local Plan also requires development to conserve or enhance important historic assets and their settings.

189. The application is supported by a Heritage Statement (John Selby, March 2020).
190. The statement identifies that the site lies close to the northern edge of Stapleford conservation area while to the north lie the listed buildings of Middlefield and Pinewood along with Fox Hill, which may be a non-designated heritage asset. The statement highlights that the Edwardian mansions are set in the former Foxhill Plantation, built to be exclusive, away from the main settlement, with spacious grounds and secluded surroundings; this setting is of high significance.
191. The statement further details that the scheduled ancient monuments in the north of Stapleford parish are of the highest significance, forming part of a wider prehistoric landscape of national significance. The statement sets out that within this setting are several archaeological sites which are collectively of high significance.
192. The statement concludes, with reference to the findings of the supporting Landscape and Visual Assessment (LVA), that views from the conservation area towards the site are across the arable fields towards the proposed countryside park. The statement further details that the development of the retirement village will not impinge on the setting of the conservation area, given the limited intervisibility between them.
193. In terms of the listed buildings and their settings, the statement sets out that the sylvan setting of the Edwardian mansions on Foxhill remain unaffected with views to and from this group of buildings, disrupted only by planting within the proposed countryside park. The retirement village is on the village edge and therefore does not cause harm to the setting of these listed buildings.
194. The statement does identify harm to the significance of the scheduled ancient monument to the north of the site, specifically Little Trees Hill, which forms part of a group of scheduled monuments in the north of Stapleford Parish, including Roman Road, Wandlebury and Wormwood Hill.
195. There are elevated views towards the site from part of Magog Down, accessible to the public, including the southern area to the south-west of the copse on Little Trees Hill. The statement recognises that the application site forms part of a panorama to the south-west which includes the existing village which is relatively well contained within existing trees and vegetation, noting that the LVA identifies that the development will have a moderate adverse impact on this view.
196. The statement concludes that the proposed development impinges on this wider view and the retirement village element will cause some harm to the appreciation of the setting. However, the statement considers the harm to be

less than substantial harm (and in this case the level of less than substantial harm is low to medium) which would therefore need to be weighed against the public benefits of the proposal, with the statement noting there to be several which carry considerable weight in this instance.

197. The application has been subject to formal consultation with the Council's Historic Environment Team and Historic England, who raise no objection to the proposal and do not identify any harm that would arise from the development of a retirement care village.
198. Officers are satisfied that the retirement care village would not result in harm to Stapleford conservation area or the setting of nearby listed buildings given the separation between the designated heritage assets and the proposed built form of development, along with their limited intervisibility, and concur with the conclusions of the submitted Heritage Statement.
199. Officers note that the Heritage Statement submitted does identify less than substantial harm to the to the setting of Little Trees Hill, a scheduled ancient monument, albeit no such concern has been raised by the technical consultees.
200. Nonetheless, in line with the provisions of the NPPF, whilst considerable weight must be given to any harm to designated heritage assets, it would need be weighed against the public benefits from the scheme. In this instance, there are wider benefits to the proposal (set out later in this report: see very special circumstances) that are considered to outweigh the less than substantial harm identified within the Heritage Statement, again noting the lack of objection from the Council's Historic Environment Team and Historic England.
201. In terms of the developments potential impact on archaeology, the application has been subject to formal consultation with Cambridgeshire County Council's Historic Environment Team who raise no objection to the proposal, subject to a condition requiring a programme of archaeological work to be secured in accordance with a written scheme of investigation.
202. Officers are satisfied that, subject to the imposition of a condition requiring a programme of archaeological as part of any consent, the development would be acceptable in terms of its impact on archaeology.
203. Overall, the proposal is considered acceptable in heritage terms and to comply with Policy NH/14 of the Local Plan and national guidance.

### **Residential Amenity**

204. The application is in outline form with matters of scale, layout and appearance reserved. Therefore, the final layout of the retirement care village and the scale and appearance of the development (i.e. fenestration details) are not known at this stage.
205. The Parameter Plan for Land Use and Building Heights indicates where the built form of development would be contained, along with maximum ridge heights, in

relation to the existing residential properties to the south west of the development. The Illustrative Masterplan provides a sense of how the layout of the retirement care village could be accommodated on the site in relation to existing residential properties to the south.

206. The Parameter Plan indicates that the edge of the retirement care village would be at least 24 metres (approximately) from the southern edge of the application site boundary at least 14 metres (approximately) from the south-western site boundary.
207. Officers acknowledge the concerns which have been raised locally with respect to a potential overbearing impact, loss of privacy and loss of light from the proposed retirement care village.
208. Given separation between the proposed built form of development and existing residential properties, officers are satisfied that the retirement care village is unlikely to result in an unduly overbearing mass, significant loss of light, severe loss of privacy or unacceptable increase in the level of noise and disturbance to occupiers of the adjacent properties.
209. However, these matters would be considered further at the reserved matters stage.
210. The proposal would therefore comply with Policy HQ/1(n) of the Local Plan.

### **Renewables / Climate Change**

211. The application has been subject to formal consultation with the Council's Sustainability Officer who notes that the Planning Statement and Design and Access Statement submitted in support of the application fail to include any detail relating to sustainable construction, energy efficiency or renewables and low/zero carbon technology.
212. Local Plan Policies CC/1, CC/3 and CC/4 require development to demonstrate and embed the principles of climate change mitigation and adaptation, that the carbon emissions of the development are at least 10% lower than that of a standard development and all new residential developments to achieve as a minimum water efficiency equivalent to 110 litres per person per day.
213. The Council's Sustainability Officer raises no objection to the proposed development, subject to conditions requiring an Energy Statement (to demonstrate a minimum of 10% reduction in carbon emissions) and water efficiency specifications. The Sustainability Officer also comments that if commercial premises are included with the development and the layout of these is 1,000sqm or greater then it is possible that other non-residential policies may apply. Officers are satisfied that this matter could be dealt with through suitably worded conditions to cover such an eventuality.

214. Notwithstanding the lack of information at this stage officers are satisfied that, subject to the imposition of appropriate conditions, the proposal would comply with Policies CC/1, CC/3 and CC/4 of the Local Plan.

### **Contaminated Land**

215. The application is supported by a Phase 1 Desk Study and Preliminary Risk Assessment (Geosphere Environmental, June 2019). While there are no historical uses likely to give rise to contamination the report sets out that there are several potential contaminant sources and pathways to sensitive receptors and recommends that a targeted Preliminary Intrusive Ground Investigation is undertaken, in order to determine the risk to the proposed development from the identified source (the chalk bedrock).

216. The application has been subject to formal consultation with the Council's Contaminated Land Officer, who raises no objection subject to conditions requiring a detailed desk study and site walkover, risk assessment, remediation method statement, verification report and identification of additional or unexpected contamination.

217. Officers are satisfied that, subject to the imposition of conditions requiring the details noted above, the development would be acceptable in terms of contamination.

218. The proposal would therefore comply with Policy SC/11 of the Local Plan.

### **Loss of Agricultural Land**

219. Policy NH/3(1) of the Local Plan states that planning permission will not be granted for development which would lead to the irreversible loss of Grades 1, 2 or 3a agricultural land unless (a) Land is allocated for development in the Local Plan or (b) sustainability considerations and the need for the development are sufficient to override the need to protect the agricultural value of the land.

220. The retirement care village would be located entirely on land which is classified as Grade 2 (very good) agricultural land.

221. In this instance, there are wider benefits to the proposal (set out later in this report: see very special circumstances) which would likely override the need to protect the agricultural value of the land.

222. The proposal would therefore comply with Policy NH/3 of the Local Plan.

## Other Matters

### Affordable Housing

223. The retirement care village would fall into use class C2 (residential institutions). Consequently, the development is not required to provide affordable housing in the same manner that a C3 development (dwellinghouses) would be required. Officers note that no objection has been raised by the Council's Affordable Housing team in this regard who comment that C2 use is unlikely to require affordable housing.
224. The retirement care village model proposed comprises the combination of a full care facility and retirement accommodation with care linkages, often referred to as 'assisted living' or 'extra-care'. The Extra Care model enables the elderly to buy in care packages to suit their needs rather than paying the fixed costs of a nursing home or residential care home.
225. The 'affordability' of the retirement care village would be down to the operator and the market demand / need, noting the concern raised locally about the cost of the accommodation or it being for 'high-end' occupants.
226. The development would not conflict with Policy H/11 of the Local Plan as officers do not consider that Policy H/11 is engaged.

### Alternative Sites

227. The application is supported by an Alternative Site Assessment (Carterwood, April 2020). The assessment sets out that the study endeavoured to identify all suitable, available and achievable sites for the proposed development within South Cambridgeshire and Cambridge local authority boundaries. The research was based on publically available planning policy documents (each local authority's Strategic Housing Land Availability Assessment), local commercial and residential agent research, national healthcare property agent enquiries, the local authority estates department, and planning and property websites. A filtering process was undertaken in order to ascertain any sites identified as potentially suitable for the elderly care facility and therefore requiring further assessment.
228. The Assessment concludes that initial research identified a total of 109 potential sites within the area of the two local authorities. These were assessed against elderly care facility operator requirements and excluded those sites that had not been previously developed within the Green Belt as they are not preferable to proposed Green Belt site. This identified three potential sites that required further investigation, as they fulfilled all or part of the initial desktop site assessment process (Former Marley Tiles, Sawston; Grove Road/West Way, Sawston; Cambourne Business Park, Cambourne). The three sites were not considered suitable for the proposed elderly care scheme.
229. Officers note the supporting text to Policy SC/5 of the Local Plan, which deals with community healthcare facility provision, states in paragraph 9.21

“proposals within the Green Belt would have to demonstrate very special circumstances, in particular why they were unable to locate outside the Green Belt”.

230. Officers acknowledge the findings of the Alternative Site Assessment and raise no strong objection to its contents, noting that the majority of the 109 sites assessed were rejected at an early stage due to their inadequate site size for the proposed end use.
231. However, clearly it is not possible to definitively conclude that there are no non-Green Belt sites within the two authority areas on which a retirement care village could be developed – there is no specific functional or operational requirement for a retirement care village to be located exclusively within the Green Belt.
232. Nonetheless, that consideration does not constitute additional harm or a specific reason for refusal and the application is therefore assessed on its own merits against relevant planning policy.

#### Cambridge Autonomous Metro (CAM)

233. The holding objection from / on behalf of The Greater Cambridge Partnership (GCP) is noted. The development acknowledges the potential Cambridge South East Transport scheme (CSETS) route as part of the proposed development, which is shown on several of the Parameter Plans. There is a potential degree of conflict between the route shown on the Parameter Plans that support the application and that proposed by GCP.
234. However, the potential route is not at a stage of development where it can have a significant bearing on the assessment or determination of the outline planning application which has been submitted; therefore, limited / no weight can be afforded to the potential route at this time.

#### Health / Lighting / Noise Impacts

235. The comments of the Council’s Environmental Health Officer are noted.
236. Officers are satisfied that conditions could be imposed as part of any consent to restrict / require details of hours of works, driven pile foundations, spread of airborne dust, comprehensive construction programme, burning of waste, scheme for protecting proposed dwellings from noise from Haverhill Road, external lighting, waste management and minimisation strategy and assessment of noise impact of plant or equipment. Such conditions, or an overarching Construction Environmental Management Plan (CEMP) and/or a phased Construction Method Statement / Strategy (CMS) would ensure adequate protection of neighbouring properties and the potential future occupiers of the site, in line with adopted policy.
237. Informatives relating to any noise insulation scheme condition, noise attenuation schemes and the Greater Cambridge Sustainable Design and Construction

Supplementary Planning Document could also be included for the information of the applicant.

### Sustainability

238. The site is located on the edge of Stapleford, albeit slightly detached from the development framework boundary, which is classified as a Rural Centre under the Council's settlement hierarchy under Policy S/8 of the Local Plan. Rural Centres are the largest, most sustainable villages of the district. They have good access to a secondary school (either within the village or accessible by good public transport), employment opportunities, a variety of services and facilities and have good public transport services to Cambridge or a market town. For development within framework boundaries there is no limit on individual schemes, provided that adequate services, facilities and infrastructure are available or can be made available as a result of the development.
239. The retirement care village would be approximately 1.1 kilometres from the nearest centre of services along London Road, Stapleford and 2 kilometres to the centre of services in Great Shelford (Woollards Lane). In terms of distance from existing public transport, the retirement care village would be approximately 1.3 kilometres from Great Shelford train station, approximately 80 metres from the nearest bus stop (albeit a relatively infrequent service) and approximately 1km from the nearest bus stop with a regular service (every 20 minutes).
240. Officers accept that the retirement care village would be located on the settlement edge, a reasonable distance from the main services and facilities within the village. However, these facilities, including public transport, would be reasonably accessible from the site. It is also noted that given the nature of the development, several key services / facilities would be integrated into the development itself, although such detail would be provided at reserved matters stage, mitigating some of the need to access services within the village.

### Third Party Comments

241. The comments made in third-party representations are noted, with many points already considered in the report. The remaining points, which are not applicable to the consideration of the very special circumstances, are addressed below.
242. Concern is raised that the general location has already been assessed and dismissed for development within the 'last local plan'. Officers have reviewed the 'Strategic Housing Land Availability Assessment' (SHLAA, 2013) which is one of a range of evidence base and supporting studies produced / commissioned to inform the adopted Local Plan. A review of the Great Shelford and Stapleford Village Sites map does not indicate that the application site was specifically put forward for consideration, aside from a small north-western corner of the wider site adjacent to Hinton Way, which was a rejected site.
243. Officers note that as part of the Council's new Local Plan the retirement care village has been submitted through the 'Call for Sites' (2019) and has been

denoted as a 'mixed-use' site. The countryside park element does not appear to have been submitted through the 'Call of Green Sites' (2019), although the entire Cambridge Green Belt has been put forward. No weight can be attached to the review of the new Local Plan at this stage.

244. Several representations raise concern that the approval of the application could set a precedent for future development within the Green Belt. Officers do not consider this to be the case. The proposal is assessed on its own merits, as would any other application within the Green Belt, with due consideration of any very special circumstances in each case. A precedent would not be set.

### **Very Special Circumstances**

245. In addition to the harm by reason of inappropriateness, the retirement care village is also considered to result in harm by virtue of the loss of openness of the Green Belt, conflict with the purposes of the Green Belt, detrimental impact on the character of the area and an adverse impact to landscape character. It is therefore necessary to consider the justification put forward by the applicant's agent in support of the proposal and the extent to which these amount to 'very special circumstances'. This justification is set out in summary below, taken from table 3 of the Planning Statement.

246. Need for specialist older people's housing in the area:

- There is identified to be a rapidly ageing population within the both the Country and the District. There is significant identified need for new care and extra care provision for older people within the District and the market catchment area in the vicinity of the site.
- Government guidance on the provision of housing for older and disabled people is very clear; "The need to provide housing for older people is critical" (NPPG: 63-001-20190626)
- Very significant weight should be given to the provision of such housing in this instance.

247. Release of general housing stock into the market:

- The provision of specialist accommodation for older people as proposed will mean that existing general housing stock is released into the market as older people sell or relinquish their houses and move into the specialist older people's accommodation.
- It is likely that the proposed retirement village will attract older people from outside of South Cambridgeshire or even the sub-regional housing market area. Similarly, not all new residents would necessarily relinquish an existing house. As such it should not be assumed that there will be a one for one release of housing stock. However, even if the ratio of release were to be a conservative 1 in 3, this would yield a significant

release of general housing stock into the area.

- In an area of substantial housing need and critical affordability issues such as South Cambridgeshire, this should be judged as a significant benefit of development.

#### 248. Creation of 19-hectare countryside park:

- The Countryside Park will provide a significant public recreational amenity space and will be free for the public to use and will be of substantial benefit to existing residents in the area and beyond.
- Due to its location, the countryside park will be accessible to the public by both foot and cycle from its opening. Should the Cambridge Autonomous Metro be delivered as predicted then it will be accessible via these sustainable means and will provide links other similar assets manifestly increasing the amenity benefits of the provision.
- Paragraph 91c of the NPPF is clear that planning decisions should enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of safe and accessible green infrastructure.
- Significant weight should be given to the provision of a circa 19 hectare countryside parking in this instance

#### 249. Biodiversity Benefits:

- The scheme will result in a significant Biodiversity Net Gain at the site. Habitat losses are restricted in the main to arable land of low biodiversity value. The new habitats proposed include chalk grassland, retention and infilling of existing boundary features, establishment of permanent and suitably planted pond features, species-rich mixed native species planting, bat and bird boxes, and creation of habitat piles.
- The NPPF makes clear at paragraph 175d that development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged especially where this can secure measurable net gains for biodiversity.
- The significant biodiversity net gain should be afforded significant weight.

#### 250. Economic Benefits:

- The development will provide significant investment in the local area during its construction, estimated at this early stage to be something in the order of £15 million.

- During the construction phase the project is estimated to generate in the order of 190 full time equivalent (FTE) jobs.
- Once operational the retirement village facility is estimated to generate in the order 70 FTE jobs. This estimate is drawn from data provided by retirement village operators of a size commensurate to that proposed.
- The proposals would naturally generate increased spend in local area, benefiting local services and facilities
- The scheme would potentially include a number of on-site services and facilities including; dining facilities, communal gardens, hairdresser, swimming pool and wellness facilities. A number of these facilities would be available for use by the wider community – this would boost the self-sufficiency and sustainability of the village.
- Paragraph 80 of the NPPF makes clear that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. In this context the economic benefits of the proposals are not the principal objectives of the scheme and should be given moderate weight in the balance.

251. Social Cohesion and wellbeing benefits:

- The proposed retirement village will increase local housing choice and allow more older people to stay close to existing friends and family in the community.
- Communal facilities proposed will draw the wider community into retirement villages thereby increasing integration. The proposed countryside park will similarly be free for use by the community as a whole and will provide access to the countryside and nature.
- Paragraph 91a of the NPPF states that new development should promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other.
- Paragraph 96 of the NPPF states that Access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities

**Officer Assessment of the ‘Very Special Circumstances’**

Need

252. The NPPG offers the following guidance concerning housing for older and disabled people:

Why is it important to plan for the housing needs of older people?

The need to provide housing for older people is critical. People are living longer lives and the proportion of older people in the population is increasing. In mid-2016 there were 1.6 million people aged 85 and over; by mid-2041 this is projected to double to 3.2 million. Offering older people a better choice of accommodation to suit their changing needs can help them live independently for longer, feel more connected to their communities and help reduce costs to the social care and health systems. Therefore, an understanding of how the ageing population affects housing needs is something to be considered from the early stages of plan-making through to decision-taking.

Paragraph: 001 Reference ID: 63-001-20190626

Revision date: 26 June 2019

What factors should decision makers consider when assessing planning applications for specialist housing for older people?

Decision makers should consider the location and viability of a development when assessing planning applications for specialist housing for older people. Local planning authorities can encourage the development of more affordable models and make use of products like shared ownership. Where there is an identified unmet need for specialist housing, local authorities should take a positive approach to schemes that propose to address this need.

Paragraph: 016 Reference ID: 63-016-20190626

Revision date: 26 June 2019

253. The application is supported by a Planning Need Assessment (Carterwood, February 2020). The Assessment looks at demand, currently supply and planned supply.
254. The care home assessment adopts a market catchment area broadly based on a five-mile radius from the site (based on previous analyses of distance travelled by residents into a care home). The extra-care assessment also adopts a market catchment area broadly based on a ten-mile radius (based on national research to calculate distance travelled by extra care housing residents from their last place of residence). For both end-uses the Assessment sets out relevant sites that have been granted planning permission and sites which were pending decision at the time of the Assessment. These sites are then illustrated on each catchment area map to show proximity to the site and whether they fall within the identified catchment areas.
255. The Assessment sets out that the balance between the increase in demand, due to demographic pressures, and a reduction in bed demand, due to alternatives to residential care, will be dependent upon a host of national variables, as well as site-specific factors, and is, therefore, impossible to predict with absolute certainty. The analysis illustrates the need assuming the existing

provision remains equal and that all the planned units are developed. As a result, the analysis is stated to overestimate the supply as it considers that several the planned schemes are unlikely to be developed (based on comparable research).

256. For care home need, the Assessment concludes that at 2022 there is a need for 301 market standard bedspaces within the market catchment area, assuming all planned beds are delivered. Should the demand for care home beds remain at the same rate in the future this need will increase to 444 bedspaces in 2027 and 687 bedspaces in 2032.
257. For extra care need, the Assessment concludes that at 2022 there is a need for 667 private extra care units within the market catchment area, again assuming all planned units are delivered. The analysis estimates that the indicative need will rise to 875 units in 2027 and 1,039 units in 2032.
258. The Council's Local Plan is not silent on the issue. The Local Plan acknowledges that there is an ageing population within the district with growth forecast between 2001 to 2021 of 95% for the 60-74 age group and 108% for those 75+ (paragraph 7.3 Key Facts). The supporting text to Policy H/9 (Housing Mix) also details in paragraph 7.38 that the population of the district is ageing, and often older people need or prefer smaller properties that are easier to manage than their original home, with people often looking to 'downsize' to a smaller property. Paragraph 7.39 further details that alongside a range of models that can play a part in providing specialist accommodation for older people, such as retirement communities, such accommodation should be located on sites in new settlements or within larger villages.
259. Although the adopted Plan does not allocate specific sites for such uses, there are policies which would support applications of this nature, subject to their scale and location.
260. Policy S/7 of the Local Plan supports development within framework boundaries that is appropriate to its location and there is the necessary infrastructure capacity to support the development. As noted above, Policy H/9 of the Local Plan has specific reference to specialist accommodation for the elderly.
261. Policy SC/5 of the Local Plan deals with community healthcare facility provision and details that proposals for such facilities will be supported within development frameworks.
262. The supporting text in paragraph 9.21 of the Local Plan further details that community healthcare facilities provide a range of care services designed to support patients in the community and who might previously have been treated as inpatients or day patients in hospital. The Council would be supportive of appropriately located and scaled proposals which will be assessed using relevant Local Plan policies. Proposals within the Green Belt would have to demonstrate very special circumstances, in particular why they were unable to locate outside the Green Belt.

263. The Council is preparing the evidence base for its new Local Plan, which will include a study looking at housing for the elderly as part of one looking at various types of housing. However, that study has not yet been published and the Plan review is at an early stage such that relevant policies or allocations are not known at this time. As noted above, the retirement care village site has been submitted through the 2019 'Call for Sites' but has no status at this time.
264. Officers acknowledge the concern raised locally that there are / may be vacancies in existing facilities nearby and that there is already a planned retirement complex in Great Shelford, along with an existing one. While information on vacancies is not available, the Needs Assessment submitted has considered existing and planned facilities as part of its evidence base.
265. Officers also acknowledge the concern raised locally that the facility would cater for many residents who have no connection with Stapleford or Great Shelford and therefore does not meet local demand. There is no policy requirement for the retirement care village to cater specifically for the needs of Stapleford or Great Shelford, in the same manner that a rural exception site for affordable housing would (Policy H/11 of the Local Plan), or indeed the District itself. Nonetheless, the Planning Needs Assessment clearly sets out its methodology which considered the need within a five-mile radius for care home need and a ten-mile radius for extra care need.
266. Until such time that the Council's own housing study is available, it is difficult to confirm the precise extent of need for older people's accommodation in the area or robustly rebut the evidence put forward in the Planning Needs Assessment submitted. However, officers do not dispute that there is an identified need for specialist older people's housing in the area, noting that the Council's Affordable Housing Team comments that there is a need to provide accommodation for older people in the District. Officers also acknowledge of the content of the Greater Cambridge Housing Strategy (2019 – 2023) which has relevance to issue of need and references exploring the potential for a retirement village, although no site is specified.
267. Considering the likely shortfall in C2 accommodation, there can be no doubt that the development could make a very significant contribution towards meeting local need based on the evidence available and to the health and well-being of the future occupiers of the development.
268. Officers consider that significant weight could be given to the provision of specialist housing in this instance.

#### Countryside Park: Environmental Benefit

269. Chapter 15 of the NPPF deals with conserving and enhancing the natural environment.
270. Paragraph 170 of the NPPF states that planning policies and decision should contribute to and enhance the natural environment by protecting and enhancing valued landscapes (criterion a) and minimising impacts on and providing net

gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures (criterion d).

271. Paragraph 175(d) of the NPPF states that when determining planning applications, local planning authorities should apply the following principles ... development whose primary objective is to conserve or enhance biodiversity should be supported while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.
272. Officer also note that, in respect of Green Belt (NPPF chapter 13), paragraph 141 of the NPPF states that once Green Belts have been defined, local planning authorities should plan positively to enhance their beneficial use, such as looking for opportunities to provide access; to provide opportunities for outdoor sport and recreation; to retain and enhance landscapes, visual amenity and biodiversity; or to improve damaged and derelict land.
273. At a local level, Policy NH/4 of the Local Plan states that development proposals where the primary objective is to conserve or enhance biodiversity will be permitted. New development must aim to maintain, enhance, restore or add to biodiversity. Opportunities should be taken to achieve positive gain through the form and design of development. Policy NH/6 of the Local Plan states that the Council will aim to conserve and enhance green infrastructure within the district and will encourage proposals which reinforce, link, buffer and create new green infrastructure.
274. The Cambridge South Fringe Area Action Plan identifies the area in which the application is located as an element of the southern fringe landscape and is designated as an area of improved landscaping.
275. Policy CSF/5(2) sets out that a Countryside Enhancement Strategy will be prepared for the area bounded by the Cambridge City boundary, Babraham Road, Haverhill Road, and the edge of the built up area of Great Shelford and Stapleford. The Strategy will comprise (f) new copses on suitable knolls, hilltops and scarp tops; (g) management and creation of chalk grassland; (h) management of existing shelter belts; (i) new mixed woodland and shelter belts; (j) creation of a landscape corridor along Hobson's Brook; (k) reinforcement and planting of new hedgerows; (l) roadside planting; (m) new footpaths, cyclepaths and bridleways creating routes through the area and linking to Wandlebury Country Park / The Magog Down.
276. Policy CSF/5(3) states the Countryside Strategies will include integrated proposals for landscape, biodiversity, recreation and public access improvements, which will be compatible with long-term agricultural production to create enhanced gateways into the City. Provision will be made for maintenance of landscaping and replacement of diseased, dying and dead stock for a period of 10 years, and details of long-term management thereafter.
277. Further to adopted planning policy, in February 2021 South Cambridgeshire District Council adopted its 'Doubling Nature' Strategy, which sets out an

approach to increasing wildlife-rich habitats and the tree canopy and improving access to green spaces. The vision is to double nature in South Cambridgeshire by 2050 and by doing so, enable wildlife and people to thrive and business to prosper, meaning more wildlife-rich habitats, and increase in tree canopy cover and better accessibility to green space.

278. Clearly the provision of a countryside park would comply with a suite of national and local planning policies and other wider objectives. The countryside park would restore local habitat, significantly increase tree cover and result in a significant biodiversity net gain, alongside an enhancement to the local landscape character.
279. No objection has been raised by technical consultees to the countryside park, with the Council's Ecology Officer and Landscape Officer supporting proposal.
280. In terms of biodiversity enhancements, which would have significant ecological benefit, the countryside park would create an extensive area of predominantly chalk grassland and habitat. The National Trust report that more than 80% of the UK's chalk grassland has been lost since the Second World War, mainly due to changes in land use from traditional low-level animal grazing; intensive farming with the use of herbicides and fertilisers changes the nature of the soil so the traditional chalk grassland species cannot grow. The countryside park would provide a mosaic of habitats in which chalk grassland will be an important element.
281. The Council's Landscape Officer sets out that landscape mitigation measures after a one year period would be major neutral effect and after a fifteen year period would be major beneficial effect; this area will change from arable to seminatural grassland and trees/scrub and would be more in keeping with objectives for landscape improvement and recreational / biodiversity benefits.
282. Officers acknowledge the concerns raised locally that the countryside park would be a 'sweetener' and is not enough to warrant the loss of Green Belt land to the retirement care village.
283. The application proposes the development of a countryside park, which is specifically referenced in the description of development, contained within the red line application boundary and shown on the Parameter Plans and Illustrative Masterplan which support the application. The countryside park forms part of the development proposals and must be considered as such, forming part of the planning balance.
284. The countryside park would deliver clear and significant environmental benefits.
285. Officers consider that significant weight should be given to the environmental benefits of the countryside park.

#### Countryside Park: Social Benefit

286. Chapter 8 of the NPPF focuses on promoting health and safe communities.

287. Paragraph 91(c) of the NPPF states that planning policies and decision should aim to achieve healthy, inclusive and safe places which enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling.
288. Paragraph 96 of the NPPF states that access to a network of high-quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities.
289. The accessibility to green space provisions of paragraph 141 of the NPPF, Local Plan policies, the objectives of the Cambridge Southern Fringe Area Action Plan and the Council’s Doubling Nature Strategy are all noted and of relevance to this aspect of the development.
290. Officers acknowledge the concerns raised locally that there is no identified need for a countryside park, noting the proximity to Wandlebury Country Park and Magog Downs Countryside Site, the viability and absence of a parks partner to take on management of such a site and the accessibility of the park in relation to the existing village.
291. In respect of ‘need’ officers acknowledge that there is no specific provision or allocation with the Local Plan. Nonetheless, it is highly unlikely that an application for a countryside park would be rejected given its compliance with a broad suite of planning policies and wider objectives as noted above. In addition, the proposed countryside park would form part of a larger network of open spaces in the area. Furthermore, the Covid-19 pandemic has highlighted the importance of access to open space. In their representation to the application, the Magog Trust comment in respect of the increased use of green spaces and pressure those have been put under because of the Covid-19 pandemic. It is difficult therefore to say that there is no need for a countryside park.
292. In terms of viability or parks manager, the developer has indicated that the countryside park would be transferred to the Magog Trust, whom reflect this in their own comments, along with a financial contribution to cover maintenance of the park. The Trust currently manages public access areas locally.
293. The location of the countryside park in relation to the existing village is noted. The countryside park would be accessible from three points, one from Hinton Way to the north west, one from Gog Magog Way to the south (through the retirement care village) and one from Haverhill Road to the east, all pedestrian/cycle access only. The points of access from Hinton Way and Gog Magog Way are closely related to the edge of Stapleford village and easily accessible. The point of access from Haverhill Road would be further from the edge of the village but would nonetheless be reasonably accessible and closely related to other tracks/routes to the east of the site. The area within the countryside park would provide for road-free connectivity between Haverhill

Road and Hinton Way, making a large circular walking route around the village possible. Officers raise no significant concern over the accessibility of the Countryside Park.

294. Alongside the clear environmental benefit of the countryside park, there would be strong social benefits to its provision through the provision of a significant amount of open space that would be accessible to the public, noting that the existing site is not currently accessible.
295. Officers consider that significant weight should be given to the social benefits of the countryside park.

#### Release of Housing Stock

296. Officers acknowledge that the provision of specialist accommodation for older people would result in existing housing stock being released into the market as those properties are sold or relinquished.
297. The retirement care village would not necessarily be occupied solely by residents of Stapleford or indeed the authorities of Cambridge City of South Cambridgeshire as it would likely attract older people from wider areas. The Planning Statement has suggested that even if a conservative ratio of 1 in 3 were applied this would yield a significant release of general housing stock into the area.
298. Noting that the development is for 'up to 220' units overall, officers' question whether the release would be 'significant'. Applying the Planning Statement's ratio of 1 in 3, the development would release approximately 73 existing residential units into the market. This is not considered to be a substantial release. Furthermore, the Council is currently able to demonstrate a five-year housing land supply and therefore while there may be a housing need in the area, the adopted Local Plan(s) provide enough sites to meet that requirement.
299. Officers consider that limited weight should be given to the release of housing stock, also noting that the release of housing stock is intrinsically linked to addressing the issue of need.

#### Economic Benefits

300. The retirement care village is estimated to generate 70 full time equivalent jobs, as set out on the Application Form and Planning Statement. It has also been estimated that construction phase of the project would generate around 190 full time equivalent jobs. There may also be some increased spend in the local area potentially benefiting the local services and facilities.
301. Officers acknowledge the provision of the NPPF in terms of economic development. Chapter 6 of the NPPF focuses on building a strong, competitive economy and paragraph 80 of the NPPF sets out that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

302. However, as acknowledged within the Planning Statement, the economic benefits of the proposals are not the primary objective of the scheme. Officers recognise the importance of job creation, including the temporary construction roles. Nonetheless, given the overall size of the development, the benefits of the on-site job creation for the local and national economy would not be substantial, certainly in the context of a Green Belt site.
303. Officers consider that limited weight should be given to the economic benefits of the development.

#### Social Cohesion and wellbeing benefits

304. Officers acknowledge the Planning Statement presents 'social cohesion and wellbeing benefits' as a very special circumstance, citing increased local housing choice, older people staying close to existing friends and family and the use of the countryside park.
305. These benefits have already been considered and therefore no further weight is applied to this consideration as a separate entity.

### **Planning balance and conclusion**

306. The proposed development would constitute inappropriate development in the Green Belt which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
307. The NPPF is clear that, when considering any application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
308. In addition to the harm by reason of inappropriateness, the retirement care village is also considered to result in harm by virtue of the loss of openness of the Green Belt, conflict with the purposes of the Green Belt, detrimental impact on the character of the area and an adverse impact to landscape character.
309. Substantial weight is given to the harm caused to the Green Belt by reason of inappropriateness. Significant weight is given to the harm caused to the loss of openness to the Green Belt while significant weight is also given to the harm caused to the conflict with the purposes of the Green Belt. Substantial weight is accorded to the overall harm to the Green Belt.
310. Officers attribute significant weight to the harm to the character and appearance of the area and significant weight to the adverse harm to landscape character arising from the development of a retirement care village.
311. The determination of whether very special circumstances exist is a matter of planning judgement, based on a consideration of all relevant matters. However,

very special circumstances cannot exist unless the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations, as set out in paragraph 144 of the NPPF. Consequently, for the development to be supported, the overall balance would have to favour the proposal, not just marginally, but decisively.

312. Officers attach significant weight to the contribution that the development would make to the need for specialist older people's housing in the area, including the health and well-being benefits for the future occupiers of the development.
313. Officers attach significant weight to both the environmental and social benefits that the countryside park would bring.
314. Officers attach limited weight to the economic benefits of the scheme and afford no weight to the 'social cohesion and wellbeing benefits' advanced as a standalone circumstance as these benefits have already been considered as part of other circumstances.
315. In conclusion, despite the merits of the proposed development, officers consider that given the inherent conflict with national and local policies with regard to harm to the Green Belt (inappropriateness, openness and purposes), character and appearance and landscape character, the very special circumstances presented, taken collectively or individually, do not clearly outweigh the harm as required by paragraph 144 of the NPPF.
316. For the reasons set out in this report, the application is recommended for refusal.
317. Should the application be approved following members conclusion that the development would be inappropriate development in the Green Belt, the application will need to be referred to the Secretary of State under The Town and Country Planning (Consultation) (England) Direction 2009. There would also be a need to agree a full list of conditions and the requirements of any Section 106 agreement.

## **Recommendation**

318. Officers recommend that the Planning Committee refuses the application for the following reasons.

## **Reasons**

- a) The site is located outside of the development framework boundary of Stapleford, within the countryside and Cambridge Green Belt. The proposed development would represent inappropriate development that is, by definition, harmful to the Green Belt in policy terms as the retirement care village does not fall within any of the exception criteria within paragraphs 145 or 146 of the National Planning Policy Framework 2019. The proposal is therefore contrary to Policy S/4 of the South Cambridgeshire Local Plan 2018 and paragraphs 143,

144, 145 and 146 of the National Planning Policy Framework 2019 that seek to resist inappropriate development in the Green Belt.

- b) In addition to harm caused by inappropriateness, the proposed retirement care village would have a substantial and detrimental impact on the openness of the Green Belt through the introduction of a substantial built form of development and urbanising effect on the site that cannot be said to safeguard the countryside from encroachment, which would undermine the purposes of the Green Belt and including land within it. The proposal is therefore contrary to Policies S/4 and NH/8 of the South Cambridgeshire Local Plan 2018 and paragraphs 133 and 134 of the National Planning Policy Framework 2019 which set out that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
- c) The proposed retirement care village, by virtue of the introduction of a substantial built form of development on land which is currently open, would fail to reflect or respect the strong rural characteristics of Stapleford or respond to the sites sensitive edge of village location. The development would be out of keeping with the local vernacular, appearing as an incongruous and extensive urban form of development on the village edge. Furthermore, the retirement care village would result in a significant incursion into the landscape and soft rural edge of the village which would do little to respect, retain or enhance the local character and the distinctiveness of the local landscape. The proposal is therefore contrary to Policies S/7, HQ/1, NH/2 and NH/8 of the South Cambridgeshire Local Plan 2018 and paragraphs 127 and 170 of the National Planning Policy Framework 2019 which seek to protect the countryside from encroachment, preserve or enhance the character of the local rural area and protect or enhance valued landscapes.
- d) The application has failed to provide very special circumstances which, taken individually or collectively, demonstrate why the harm by reason of inappropriateness in the Green Belt and other harm identified, is clearly outweighed by these considerations. The application therefore fails to satisfy the requirements of paragraph 144 of the National Planning Policy Framework 2019.

## **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.

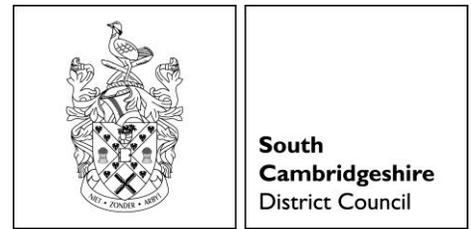
- South Cambridgeshire Local Plan 2018
- Cambridge Southern Fringe Area Action Plan 2008
- South Cambridgeshire Supplementary Planning Documents (SPDs)
- Planning File References: 20/03141/SCRE, S/0520/07/F, S/0442/06/F, S/1672/91/F, S/0211/91/F.

**Report Author:**

Michael Sexton – Principal Planner  
Telephone: 07704 018467

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# Agenda Item 6



13 April 2021

**Report to:** South Cambridgeshire Planning Committee

**Lead Officer:** Joint Director of Planning and Economic Development

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## **20/03151/REM– Land South of Thompsons Meadow, Guilden Morden, Cambridgeshire.**

Proposal: Reserved matters for appearance, landscaping, layout and scale following outline planning permission S/3077/16/OL for the proposed development of up to 16 dwellings (8 market and 8 affordable) with all matters reserved except access.

Applicant: Peter David Homes Ltd.

Date of Member site visit: None

Is it a Departure Application?: No

Decision due by: 16<sup>th</sup> April 2021 (extension of time agreed)

Application brought to Committee because Guilden Morden Parish Council requested the application be determined by Planning Committee.

Officer Recommendation: Approval

Presenting officer: Aaron Coe, Principal Planning Officer

### **Executive Summary**

1. The proposal seeks permission for Reserved Matters consent for appearance, landscaping, layout and scale following outline permission S/3077/16/OL for the erection of 16 dwellings (8 affordable, 8 market).

2. The application has been amended by the applicants following consultee comments. The amendments involve alterations to layout and landscaping details. These amendments are considered to improve the quality of the scheme to ensure that it provides a high quality development and fits in with the surrounding area.
3. The reserved matters details for appearance, layout, scale and landscaping are considered acceptable by officers and the application is recommended for approval subject to conditions.

## **Site and Surroundings**

4. The site is located on land adjacent to but outside of the village framework of Guilden Morden. The site is to the west of Trap Road and to south of Thompsons Meadow. The site is not within the conservation area. The access to the site is via the northern boundary off Thompsons Meadow. The application site is currently undeveloped grass land with several trees, some of which are covered by a Tree Preservation Order. The northern and eastern boundary of the site is protected by a group Tree Preservation Order. The southern and western boundary also consists of tall trees, however, none of these are protected. The site is located in flood zone 1 (low risk).

## **Relevant planning history**

5. S/3077/16/OL- Erection of 16 dwellings (50% affordable) with all matters reserved except from access.

## **Planning policies**

### **National Planning Policy**

6. National Planning Policy Framework (NPPF) – February 2019  
National Planning Practice Guidance (NPPG)  
National Design Guide (NDG)

### **South Cambridgeshire Local Plan 2018**

- S/1 – Vision
- S/2 – Objectives of the Local Plan
- S/3 – Presumption in Favour of Sustainable Development
- S/5 – Provision of New Jobs and Homes
- S/7 – Development Frameworks
- S/10 – Group Villages
- CC/1 – Mitigation and Adaptation to Climate Change
- CC/3 – Renewable and Low Carbon Energy in New Developments

CC/4 – Water Efficiency  
CC/6 – Construction Methods  
CC/7 – Water Quality  
CC/8 – Sustainable Drainage Systems  
CC/9 – Managing Flood Risk  
HQ/1 – Design Principles  
HQ/2 – Public Art and New Development  
NH/4 – Biodiversity  
H/8 – Housing Density  
H/9 – Housing Mix  
H/10 – Affordable Housing  
H/12 – Residential Space Standards  
SC/6 – Indoor Community Facilities  
SC/7 – Outdoor Play Space, Informal Open Space and New Developments  
SC/8 – Open Space Standards  
SC/9 – Lighting Proposals  
SC/10 – Noise Pollution  
SC/11 – Contaminated Land  
SC/12 – Air Quality  
TI/2 – Planning for Sustainable Travel  
TI/3 – Parking Provision  
TI/8 – Infrastructure and New Developments  
TI/10 – Broadband

### **South Cambridgeshire Supplementary Planning Documents (SPD):**

7. Open space in New Development SPD- January 2009  
Biodiversity SPD- Adopted July 2009  
Trees and Development Sites SPD- Adopted January 2009  
South Cambridgeshire Supplementary Planning Documents (SPD)  
Sustainable Design and Construction – Adopted January 2020  
District Design Guide – Adopted 2010  
Development Affecting Conservation Areas SPD – January 2009

### **Consultations**

#### **8. Guilden Morden Parish Council:**

-The Parish Council objects on the grounds of traffic and safety. It is concerned about the congestion which will occur at the exit onto Thompson's Meadow and at the junction of Thompson's Meadow with Trap Road. Problems will be caused by the increase in traffic onto Trap Road, adding to the traffic from the development across the road. This will be particularly bad and hazardous during morning and evening peak times and when the weekly refuse collection takes place. There should be a separate entrance or exit from the site onto Trap Road.

- The Parish Council remains concerned about the future use of the paddock land. A condition should be placed to ensure that this is public open space in perpetuity.

- The Council is also concerned about the safety of the pond. The pond should be fenced and life saving equipment provided.

## **9. Affordable Housing Officer**

Support the affordable housing tenure split and mix (of 50% rented and 50% shared ownership) as this will more appropriately match the findings of the Housing Needs Survey and will mean that the affordable housing on this site is delivered to meet the locally identified housing need in Guilden Morden. The scheme is policy compliant.

## **10. Highway Authority**

### As submitted

The proposed access as detailed on plan 1753 -XX-XX-DR-A -505 Rev F (Proposed Site Plan) differs from that approved under outline permission ref S/3077/16/OL. The Highway Authority would request that the access be constructed so that the layout conforms to Cambridgeshire County Councils Housing Estate Road Specification Appendix 6, whose layout is more akin to that approved under the outline planning permission.

### As amended

The proposed access layout as detailed on plan 1753 SBA -XX-XX-DR-A -508 is acceptable to the Highway Authority

Following the provision of the above drawing the Highway Authority is now satisfied that the proposal will have no significant adverse effect upon the public highway.

Conditions and informatives relating to the following matters are required:

- Management and maintenance
- Details of pedestrian connection
- Swept path analysis for refuse vehicle
- Visibility splays
- Falls and levels
- Bound material

## **11. Contaminated Land officer**

-No further contaminated land conditions required.

## **12. Landscape officer**

-The proposed layout is acceptable.

-A link between public open space and field should be created.

-Scale acceptable and consistent with local character

-Hard and Soft landscape details (Acceptable comments via outline condition S/3077/16/CONDA.)

- Boundary treatments: Boundaries to respect the local landscape character. c/b fencing is not acceptable on the edge of the development. Applicant to replace with post and rail or post and wire to prevent residents from fly tipping e.g rear boundary for plots 2-5 to be replaced with post and rail. 100 x 100mm gaps to be provided within rear gardens as hedgehog highways. Boundaries adjacent to the public realm are to be masonry with sympathetic coping details reflecting the local settlement character e.g plot 1 & 5
- Boundary treatment details for pond to be provided to provide barrier to unintended entry.
- Confirmation of cycle parking provision and lighting strategy.

### **13. Tree officer**

- No arboricultural or hedgerow objections. Tree protection plans to be listed as approved plans.

### **14. Urban Design**

- Generally no objection to the proposals in urban design terms.
- Some concern regarding the clustering of affordable units with north facing gardens.
- Recommended various layout improvements to design elements. Plots 10 and 12 accommodate large houses but small front gardens. Plots 9,10 & 14 -15 introduce a blank side elevation on the principal street and the POS. Such approach would compromise the quality of the public realm and the streetscene. Introducing some fenestration on these elevations will be beneficial for the public realm quality and can also strengthen the overlooking and natural surveillance over the POS.
- The lengths of the driveways proposed are excessive.
- Request the applicant completes the space standards spreadsheet to demonstrate compliance.

### **15. Sustainable Drainage Engineer**

- No objection. The proposed site plan makes provision for an indicative location of infiltration suds in accordance with the drainage strategy in the outline application.

### **16. Ecology Officer:**

- Ecological Enhancement and protection secured through outline consent.
- The large field to the south east should consist of a wildflower mix
- Amenity grassland mixes should have an element of clover to increase nectar provision.
- Boundary hedging should be mixed native species of local provenance.

## **Representations from members of the public**

17. Representations have been received from the following addresses:

- 17 Thompsons Meadow
- 19 Thompsons Meadow
- 9 Bells Meadow
- 63A High Street

18. The representations can be summarised as follows:

- Concerned that the development gives rise to highway safety issues.
- Concerned by safety issues associated with the proposed drainage pond.
- Questions of who will be responsible for management and maintenance of treebelt, ditch and verge.
- Concerned by the impact on the area during construction in relation to vehicle parking and construction hours.
- Confirmation required that the lighting will be sympathetic to wildlife
- Clarification on the affordable housing provision proposed.
- Concerned by the environmental impacts (flooding, wildlife etc.)

The full details of the comments are available on the council's website.

## **Planning Assessment**

### **19. Proposal**

This application seeks approval of matters reserved for appearance landscaping layout and scale following outline planning permission S/3077/16/OL for the erection of 16 dwellings (Including 8 affordable units).

### **20. Planning Assessment**

The application comprises the submission of matters for approval that were reserved when outline planning permission for the development of the site was granted. Those matters that were reserved are set out in condition 1 of outline consent S/3077/16/OL and form:

- Details of the layout of the site
- Details of the scale of buildings
- Details of the appearance of buildings
- Details of landscaping

The Town and Country Planning (Development Management Procedure) (England) Order 2015 provides a definition of what each of the above matters means in practice:

*“layout”* means the way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development.

“*scale*” means the height, width and length of each building proposed within the development in relation to its surroundings.

“*appearance*” means the aspects of a building or place within the development which determines the visual impression the building or place makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture.

“*landscaping*” means the treatment of land (other than buildings) for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated and includes; (a) screening by fences, walls or other means; (b) the planting of trees, hedges, shrubs or grass; (c) the formation of banks, terraces or other earthworks; (d) the laying out or provision of gardens, courts, squares, water features, sculpture or public art; and (e) the provision of other amenity features.

## **21. Principle of Development**

The principle of residential development for the erection of 16 dwellings on the site was established through outline planning consent S/3077/16/OL. The outline application also dealt with the matter of access with condition 4 of the consent listing the relevant approved drawing number. The Section 106 agreement secured the provision of affordable units within the site (8 units).

The key issues to consider in the determination of this application are therefore compliance with the outline planning permission, housing provision (including affordable housing), open space provision, the reserved matters (layout, scale, appearance, landscaping), biodiversity, flood risk and drainage, highway safety and residential amenity.

## **22. Compliance with the Outline Consent**

Condition 4 of the outline consent secured details of access to the proposed development site from Thompsons Meadow. The site layout and access plan, as amended demonstrates compliance with the outline consent.

The outline consent granted permission for the erection of 16 dwellings, including 8 affordable units secured through the Section 106 agreement. The reserved matters application is for the erection of 16 dwellings, including 8 affordable dwellings, and is therefore in accordance with the outline consent.

## **23. Housing Provision**

The reserved matters application proposes the erection of 16 residential dwellings. The Section 106 agreement secured at outline stage requires that 50% of the dwellings shall

be constructed for affordable housing. The application therefore provides for 8 market dwellings and 8 affordable dwellings (50%).

#### 24. Housing Density

Policy H/8 of the Local Plan details that housing developments will achieve an average net density of 30 dwellings per hectare in Group Villages but that the net density on a site may vary from the above where justified by the character of the locality, the scale of the development, or other local circumstances.

The site measures approximately 1.75 hectares in area. The development of 16 dwellings on this area would equate to a density of approximately 9 dwellings per hectare.

The density is considered acceptable given the location of the site on the edge of the village outside of the development framework, also noting that the density had already been accepted through the outline planning permission.

The proposal would therefore comply with Policy H/8 of the Local Plan.

#### 25. Market Housing Mix

Policy H/9 of the Local Plan states that a wide choice, type and mix of housing will be provided to meet the needs of different groups in the community including families with children, older people, those seeking starter homes, people wishing to build their own homes, people seeking private rented sector housing, and people with disabilities. The market homes in developments of 10 or more homes will consist of (a) at least 30% 1 or 2 bedroom homes, (b) at least 30% 3 bedroom homes, (c) at least 30% 4 or more bedroom homes, (d) with a 10% flexibility allowance that can be added to any of the above categories taking account of local circumstances. This detail is also covered by outline condition 25 parts a-c.

The application proposes the development of 8 market dwellings in the form of 2x2-bedroom properties, 2x3-bedroom properties, 2x4-bedroom properties 2x5 bedroom properties. This equates to a market housing mix of 25% 2-bedroom properties, 25% 3-bedroom properties 50% 4 or 5 bedroom properties. Whilst it is acknowledged the number of 2 and 3-bedrom properties proposed falls slightly below the 30% requirement of policy H/9, officers note that through the provision of 8 market dwellings it is not possible to achieve a split which would meet 30% in all categories and given the scheme includes the provision of affordable housing that exceeds local and national policy requirements this slight over provision of larger dwellings is considered acceptable in this instance.

#### 26. Affordable Housing

Policy H/10 of the Local Plan states that all developments of 11 dwellings or more will provide affordable housing (a) to provide that 40% of the homes on site will be affordable, (b) to address evidence of housing need; an agreed mix of affordable house tenures will be determined by local circumstances at the time of granting planning permission and (c) in small groups or clusters distributed through the site.

The application proposes the development of 8 affordable properties in the form of 4x2-bedroom houses for affordable rented and 2x2-bedroom and 2x3 bedroom houses for shared ownership. The Council's Affordable Housing Team has confirmed their support for the proposal as the proposed tenure split and mix is appropriately matched to the Housing Needs Survey and the local identified housing need in Guilden Morden.

The layout of the affordable properties in relation to 'clustering' / distribution within the site is considered later in this report.

The proposal would accord with policy H/10 of the Local Plan.

## **27. Residential Space Standards**

Policy H/12 of the Local Plan states that new residential units will be permitted where their gross internal floor areas meet or exceed the Government's Technical Housing Standards – Nationally Described Space Standard (2015) or successor document.

Given that the outline planning consent did not require the dwellings to be built to meet the residential space standards and this matter does not fall under the definition of the reserved matters for layout, appearance or scale, the development would not need to accord with national space standards.

However, officers have still assessed the proposals in line with this policy and evidence has been provided to demonstrate that all units exceed the internal space standard requirements in accordance with Policy H/12.

## **28. Open Space Provision**

The Section 106 for the development requires the following areas of open space to be delivered on site, based on the number of dwellings of each type (by bedrooms) provided on the site (8x2bed, 4x3bed, 2x4bed, 2x5bed).

The proposed layout includes a central area of open space (654sqm). Officers are satisfied that the proposed layout would exceed the requirements of the Section 106 (444sqm) in terms of open space provision.

## **29. Reserved Matters**

The design of the site follows pre-application discussions with the Local Planning Authority and the development has been further enhanced through the formal reserved

matters application with minor amendments made in response to comments raised from the Council's Landscape Officer and Urban Design Officer.

### 30. *Layout*

The layout of the site has been largely informed by the enclosed character and location of mature vegetation and trees along all boundaries of the site. The scheme involves a large central green space and areas for surface water attenuation.

The layout has been designed to create rows of houses along the northern and western boundaries of the site with a separate group of four detached units within the centre of the site. The area of public open space has been positioned to ensure there is passive surveillance of the open space within the development. There is also an undeveloped grassed area to be retained in the south east corner of the site which helps to mitigate the impact of the development on views into the site from the access along Thompsons Meadow and contributes to retaining a countryside and edge of village character.

Each plot benefits from being a reasonable size with adequate external space. There is a footpath link and vehicular access along the northern boundary providing good connectivity. As originally submitted the proposals involved plots 2 to 9 being separated by two areas of open space. However, this created a cramped north west corner and an area of open space which lacked surveillance. By relocating two plots to between the originally submitted plots 9 and 10 this created wider frontages for plots 2 and 3 and improved rear garden orientation, layouts and better surveillance over the public open space. Parking within the development has largely been incorporated to the side of each property, integrating parking with the layout in a manner which does not dominate its surroundings.

Officers consider the proposed layout of the development to be compatible with its location. Overall, officers consider that the proposed layout of the development would accord with policy HQ/1 of the Local Plan.

In terms of the layout of the 8 affordable units, both policy H/10 of the Local Plan and the Affordable Housing SPD require affordable homes to be in small groups or clusters distributed through the site; small groups or clusters will typically be of 6 to 8 units.

The layout of the site in terms of the location of the affordable housing involves plots 2 and 3 which are two-storey 3-bed shared ownership properties being located along the northern boundary and plots 4 to 9 being located along the western boundary. As originally proposed there was public open space between the market units and the affordable units, however, during the course of the application this has been amended to remove this separation. Officers consider that the distribution of the affordable units would accord with policy H/10 of the Local Plan and the Affordable Housing SPD.

### 31. *Scale*

The scale and character of the existing residential development around the site presents a mixture of two storey and single storey properties. These properties vary in terms of their width, lengths and footprint. The proposed properties include a mix of detached and semi detached two storey dwellings and detached bungalow units.

Overall, the scale of the proposed development is in keeping with the existing scale of development and character of the area. As such the buildings would not dramatically change the overall visual character of the village edge with the development providing a suitable design response in reflecting the scale of neighbouring dwellings.

Officers consider that the proposed scale of the development would accord with policy HQ/1 of the Local Plan.

### *32. Appearance*

The appearance and material palette of the existing residential development around the site varies greatly. The development to the north is typically finished in facing brickwork and tiled roofs of no particularly architectural merit. Here there is much more architectural activity and variation in the appearance of the buildings, the material palette includes predominantly facing brick work and weatherboarding with slate and tiled roofs. Officers considered it reasonable and necessary to impose a condition requiring further details of external materials to ensure that the quality of development is taken through to completion.

Overall, and subject to the recommended conditions, the appearance of the development would accord with policy HQ/1 of the Local Plan.

### *33. Landscaping and Trees*

The application is supported by a site plan, which shows the general landscape arrangements for the site. The details of the hard and soft landscaping proposals have been assessed as part of a discharge of condition application on the outline consent (application reference S/3077/16/CONDA), the details have been subject to formal consultation with the Council's Landscape Officer who is supportive of these proposed details.

The Council's Trees Officer has advised that the submitted Tree Protection Plans are acceptable and should be listed as approved plans. Officers are satisfied that subject to the Tree Protection details being secured through a compliance condition the proposals are acceptable in respect of arboricultural details.

Officers consider that the proposed landscaping would accord with policy HQ/1 of the Local Plan, which seeks to secure high quality landscaping and public spaces that would integrate the development in with the surroundings.

### **34. Biodiversity**

Officers note that conditions 16 and 22 of the outline consent requires the submission of ecological enhancement and protection, these precise details will need to be formally agreed through discharge of conditions applications rather than this reserved matters application. The Council's Ecology officer has commented on soft landscaping details in respect of grass and hedgerow mixes, these details have been amended and assessed by the Council's Landscape officer through the soft landscaping discharge of condition application and considered acceptable.

Officers consider that the proposal would accord with policy NH/4 of the Local Plan and paragraphs 170, 174, and 175 of the National Planning Policy Framework (NPPF) which requires development to enhance, restore and add to biodiversity with opportunities should be taken to achieve a net gain in biodiversity through the form and design of development.

### **35. Flood Risk and Drainage**

Drainage is largely a matter dealt with at outline stage when establishing the principle of development, with reserved matters applications requiring supporting details to demonstrate that drainage can be dealt appropriately within the layout of the site. Reserved Matters applications would typically only impose a condition for the maintenance arrangements for surface water drainage.

Conditions 12 and 13 of the outline consent required the submission of a scheme for foul and surface water drainage, including arrangements for subsequent management. Therefore, in this instance, conditions 12 and 13 of the outline consent has covered both the surface water drainage scheme and foul water drainage. The details have been submitted via discharge of condition application reference S/3077/16/CONDA, these details have been assessed by both the Lead Local Flood Authority and the Council's Sustainable Drainage Engineer and have been considered acceptable.

Overall, officers are satisfied that the proposal would accord with policies CC/7, CC/8 and CC/9 of the Local Plan which requires developments to have an appropriate sustainable foul and surface water drainage systems and minimise flood risk.

### **36. Highway Safety, Management of Roads and Parking**

The outline consent considered the matter of 'access' to the site and was found acceptable. As noted above the access to the site is in accordance with the details secured at outline stage. Parish Council and residents comments suggest an alternative access arrangement would be more appropriate. However, as detailed above the access arrangement has been established through the outline permission and is not a consideration for this reserved matters application.

The application has been subject to formal consultation with the Local Highways Authority who have confirmed the proposed details are acceptable and would not have an adverse impact upon the public highway. However, conditions are recommended in

respect of visibility splays and further details of the pedestrian connection. Given that the outline permission includes conditions 10 and 18 which secure the submission of these details, it is not considered necessary to impose these conditions again at this reserved matters stage. The conditions requested in respect of management and maintenance of roads and a swept path analysis for refuse are considered reasonable and are recommended by officers to be imposed as part of this reserved matters application.

Officers note that condition 8 of the outline consent requires the submission of a construction management plan, which would include details of contractor parking and management of construction noise – a concern raised by a local resident.

Subject to the recommended conditions the proposal is considered acceptable in highway safety terms and to accord with policy TI/2 of the Local Plan and paragraphs 108 and 110 of the NPPF.

In terms of car and cycle parking provision, each property would benefit from at least one off-road parking spaces with the majority benefitting from two spaces, which would accord with policy TI/3 of the Local Plan. Each property would also benefit secure cycle parking either in the form of an appropriately sized garage or a shed in the private gardens. The provision would accord with policy TI/3 of the Local Plan.

In respect of electric vehicle charging points, outline condition 31 secured the details of the locations of the charge points to be installed which has been assessed by the Council's Sustainability officer and considered acceptable. However, it is considered reasonable and necessary to impose a condition which secures further detail on the specifications of the charge points that are being installed.

### **37. Residential Amenity**

#### *38. Neighbouring Properties*

Paragraph 6.68 of the Council's District Design Guide details that to prevent the overlooking of habitable rooms to the rear of residential properties and rear private gardens, it is preferable that a minimum distance of 15 metres is provided between the windows and the property boundary; for two storey residential properties, a minimum distance of 25 metres should be provided between rear or side building faces containing habitable rooms.

To the west of the site is Morden Farm and Morden House, the proposed site plan demonstrates that each of the properties along the western boundary would be set off the common boundary by approximately 15 metres and there would be a separation distance in excess of the recommended 25 metres. To the north of the site are Thompsons Meadow properties. Again, there is a significant separation distance, in excess of 35metres with a densely vegetated protected tree boundary and public highway in between. Given the degree of separation along the northern and western

boundaries the proposed development is not considered to result in significant harm to the amenities of neighbouring properties.

Areas immediately to the south and east of the site are not occupied by residential units and therefore no harm is caused to these areas from the proposed development.

The proposed development has been assessed in terms of loss of privacy, loss of light and overbearing impact and is not considered to result in significant harm to the amenities of neighbouring properties.

#### 39. *Future Occupiers*

Consideration is also given to the amenities of the future occupiers of the site. The internal layout of the site is such that it is not considered to significantly compromise the quality of amenity afforded to each property. In terms of residential space standards, although the outline planning consent did not require the dwellings to be built to meet the residential space standards as noted above, the proposal does still successfully achieve these standards and each property would benefit from a private garden area of reasonable sizes which would accord with the recommendations of the Council's District Design Guide.

#### 40. *Conclusion*

The proposal is considered to accord with policy HQ/1 of the Local Plan which required development to protect the health and amenity of occupiers and surrounding uses from development that is overlooking, overbearing or results in a loss of daylight.

### **Other Matters**

#### 41. *Third Party Comments*

The comments made in third-party representations are noted, with many points already considered in the report but are summarised below:

<b>Representation</b>	<b>Response</b>
Concerned by highway safety issues and location of access.	Addressed at paragraph 36.
Concerned by safety issues associated with the drainage pond.	A condition will be imposed to ensure a sufficient boundary treatment is put in place surrounding the drainage features.

Clarification required on the management and maintenance arrangements.	Management and maintenance condition imposed in relation to the private roads. The details agreed within the S106 ensures the owner will be responsible for appointing a management company to maintain SUDs features. Maintenance arrangements for the site in respect of open space are secured through the S106 agreement.
Concerned by the arrangements during construction (contractor parking).	Addressed at paragraph 36.
Concerned by lighting impact on wildlife.	Addressed within the outline consent (condition 25- details of external lighting to be submitted prior to installation).
Clarification on the affordable housing provision	Addressed at paragraph 26.
Concerned by the environmental impacts on flooding and ecology.	Drainage and flooding details addressed at paragraph 35.  Ecological details assessed at paragraph 34.

**Planning balance and conclusion**

- 42. Officers consider the reserved matters, including the layout, scale, appearance and landscaping, to be acceptable. The proposal would provide a high-quality scheme that would positively contribute to the character and appearance of the area.

For the reasons set out in this report, officers consider the reserved matters to be acceptable in accordance with the relevant national and local planning policies. Subject to conditions the application is recommended for approval.

## **Recommendation**

43. Officers recommend that the Planning Committee approve the application subject to the following conditions:

# Agenda Item 7



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**Report to:** South Cambridgeshire District Council      13 April 2021  
Planning Committee

**Lead Officer:** Joint Director of Planning and Economic Development

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**Application Number:** 20/03370/OUT

**Parish(es):** Waterbeach

**Proposal:** Outline planning permission with all matters reserved except for access for the demolition of the existing house and the erection of five dwellings

**Site address:** 95 Bannold Road Waterbeach Cambridge

**Applicant(s):** Mr Sanders

**Recommendation:** Delegated Approval

**Key material considerations:** Principle of Development  
Housing Provision  
Access, Highway Safety and Parking Provision  
Character / Visual Amenity  
Flood Risk and Drainage  
Agricultural Occupancy Condition

**Committee Site Visit:** No

**Departure Application:** Yes (advertised 2 September 2020)

**Presenting Officer:** Alice Young, Senior Planner

**Application brought to Committee because:** Departure from the adopted Local Plan and the officer recommendation of approval conflicts with the recommendation of Waterbeach Parish Council

**Date by which decision due:** 30 September 2020 (extension of time to be agreed)

## Executive Summary

1. The application seeks outline planning permission with all matters reserved except for access for the demolition of the existing house and the erection of five dwellings. The application was referred to Planning Committee by Waterbeach Parish Council and was deemed to be a departure from policy at the Chairs Delegation Meeting on 2<sup>nd</sup> February 2021 warranting the application to be deferred to the Planning Committee for consideration.
2. The red line for the application site includes a rectangular area of land which is the existing residential curtilage of the property 95 Bannold Road and a section of land which extends to connect to the carriageway, which is within the adopted highway and which is required to form the physical access to the site. A Judicial Review pre-action protocol notification was formally submitted to the Council regarding the extent of the red line shown on the site location plan as previously submitted and claiming that this should also include visibility splays across the adopted highway. After receiving Counsel's legal advice, officers consider that the red line as now submitted is sufficient and that all necessary visibility splays as required by the Highway Authority are either within the red line or within land which is the adopted highway. There remains an ongoing dispute as to the red line location plan and whether it includes all of the land to which the application relates. Attached to this report is extensive correspondence with Few's Lane Consortium and which correspondence remains unresolved. The legal officer will be available to answer any questions at Planning Committee.
3. In terms of the principle of development, the proposal would not comply with the Local Plan, as the location of the proposed residential development is outside the development framework boundary which is not supported by a Neighbourhood Plan or other policies in the Local Plan. The proposal is therefore contrary to policy S/7 of the Local Plan as a matter of principle. However, there are material considerations relating to the site context which suggest that despite this conflict the proposal should be supported as limited harm would arise from the proposal.
4. Since the adoption of the Local Plan, residential developments to the north, east and west of the site, which are also outside of the development framework boundary, have been completed and are occupied. These permissions were approved when the Council could not demonstrate a five-year housing land supply. Together they have introduced new homes on what was previously agricultural land, resulting in the area significantly changing both physically and functionally. More recently, the Council has lost an appeal (4 Feb 21) on a narrow parcel of land immediately to the west of the site proposed for 21 dwellings under application S/4744/18/FL. Despite there being a 5-year housing land supply and outside the framework boundary, the Inspector remarked at paras. 6 and 7 that:

5. 'it is evident that the character of the area has changed as a consequence of the cumulative impact of those previous decisions, regardless of the basis upon which those decisions were taken' ...and at para. 7 that, 'the appeal site has more affinity with the suburban form that surrounds it. Therefore, in principle, housing on this site would be in keeping with the area's prevailing character and would not encroach into rural and open countryside'.
6. A full copy of the Inspector's decision is attached as appendix 1 to this report. Officers are of the view that the context and basis for the Inspector's reasoning on the adjacent appeal site are directly relevant to the application before them today, as set out below.
7. The application site is surrounded by residential development which effectively separates the site from the open countryside beyond, aside from the vacant field to the west of the site, which has gained consent at appeal. Therefore the site's contribution to the rural open countryside has been diminished by virtue of the development to the north, east and west of the site and in visual terms, the site has more affinity to that of these suburban developments surrounding the site comparative to the countryside surrounding Waterbeach village. The proposal would not therefore harm the wider character and appearance of the countryside and it is the view of officers that the site and its immediate surroundings cannot be categorised as being 'countryside' to which the proposal would 'encroach into'.
8. In terms of suitability, Policy S/9 of the Local Plan designates Waterbeach as a Minor Rural Centre. The policy details that residential development and redevelopment up to an indicative maximum scheme size of 30 dwellings will be permitted within the development frameworks of Minor Rural Centres, as defined on the Policies Map. Whilst the application site is located outside of the development framework boundary and therefore technically policy S/9 would not apply, the scale of the development (5 dwellings, net gain of 4) is aligned with the quantum of development which would normally be permitted within the framework. Officers consider that a departure from policy S/7 of the Local Plan is justified in this instance given the site context, limited harm to the countryside which would arise and the relatively sustainable location of the scheme close to services and facilities. Furthermore, there are no other technical issues (such as drainage or highways) that would render this development unacceptable when taken individually or cumulatively. Officers therefore recommend that the Committee grants planning permission for the proposed development.

## **Site History**

9. 20/01138/OUT - Outline planning permission with all matters reserved except for access for the demolition of the existing house and the erection of five dwellings – Withdrawn
10. S/0747/05/F – Double garage – Approved.
11. S/1364/83/F – Erection of one house – Approved.
12. S/1107/80/D – Farmhouse – Approved.  
S/0557/79/O – Erection of farmhouse and garage – Approved.

### Adjacent Site History

#### *Western Boundary of Application Site*

13. 20/02460/FUL – Residential development for 21 dwellings including affordable housing with associated access, landscaping, open space, garages and one self build/custom build plot (Re-submission of S/4744/18/FL) – *pending appeal*.
14. S/4744/18/FL – Proposed residential development for 21 dwellings including affordable houses with associated access landscaping open space garages and one self-build/custom build plot – Refused (23.03.2020). Appeal Allowed (04.02.2021).

#### *Eastern Boundary of Application Site*

15. S/2475/18/VC – Variation of Conditions 2 (Approved Plans) 4 (Hard & Soft Landscaping) & 14 (Scheme of Ecological Enhancement) of Planning Application S/3399/17/FL (Demolition of existing storage buildings and erection of six dwellings including creation of access from Bannold Road associated garages hardstanding and landscaping) – Approved (11.10.2018).  
S/3399/17/FL – Demolition of existing storage buildings and erection of six dwellings including creation of access from Bannold Road associated garages hardstanding and landscaping – Approved (19.01.2018).

#### *Northern Boundary of Application Site*

- S/2458/16/RM – Application for Reserved matters in respect of appearance landscaping layout and scale for the residential development of 90 dwellings following outline planning permission S/1359/13/OL – Approved (12.12.2016).  
S/1359/13/OL – Outline application for residential development up to 90 dwellings with access to Bannold Road – Refused (15.10.2013); Appeal Allowed (25.06.2014).

### **National Guidance**

16. National Planning Policy Framework 2019

## **Development Plan Policies**

17. **South Cambridgeshire Local Plan 2018**
  - S/1 – Vision
  - S/2 – Objectives of the Local Plan
  - 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
  - CC/1 – Mitigation and Adaptation to Climate Change
  - CC/3 – Renewable and Low Carbon Energy in New Developments
  - CC/4 – Water Efficiency
  - CC/6 – Construction Methods
  - CC/7 – Water Quality
  - CC/8 – Sustainable Drainage Systems
  - CC/9 – Managing Flood Risk
  - HQ/1 – Design Principles
  - NH/4 – Biodiversity
  - NH/14 – Heritage Assets
  - H/8 – Housing Density
  - H/9 – Housing Mix
  - H/12 – Residential Space Standards
  - H/16 – Development of Residential Gardens
  - H/19 – Dwellings to Support a Rural-based Enterprise
  - SC/6 – Indoor Community Facilities
  - SC/7 – Outdoor Play Space, Informal Open Space and New Developments
  - SC/9 – Lighting Proposals
  - SC/10 – Noise Pollution
  - SC/11 – Contaminated Land
  - SC/12 – Air Quality
  - TI/2 – Planning for Sustainable Travel
  - TI/3 – Parking Provision
  - TI/8 – Infrastructure and New Developments
  - TI/10 – Broadband
  
18. **South Cambridgeshire Supplementary Planning Documents (SPD):**
  - Sustainable Design and Construction SPD – Adopted January 2020
  - Cambridgeshire Flood and Water SPD – Adopted November 2016
  - Health Impact Assessment SPD – Adopted March 2011
  - Affordable Housing SPD – Adopted March 2010
  - District Design Guide SPD - Adopted March 2010
  - Landscape in New Developments SPD - Adopted March 2010
  - Biodiversity SPD - Adopted July 2009
  - Open Space in New Developments SPD - Adopted January 2009
  - Trees & Development Sites SPD - Adopted January 2009
  
19. **Neighbourhood Plan**

## Consultation

20. **Waterbeach Parish Council** – Objects and refers to Planning Committee.

Waterbeach PC recommends refusal of this planning application and stands by its previous comments submitted in March 2020 (see below). Waterbeach Parish Council raised concerns regarding the additional impact of more traffic, both construction and residential, on an already congested road. The Council would like to request a Highways Assessment on the Bannold Road/Way Lane junction. In the event of the planning application being given approval the Council requests that all construction traffic uses Bannold Road and not Way Lane due to the risk of children using the road for access to the school.

21. The Council has also taken into consideration the comments from neighbours regarding loss of light, loss of privacy and the overbearing aspect on the proposed properties. Looking at the plans, the Council notes that there are site options to redesign the layout of the properties which may reduce the impact on neighbours.

22. The Council also has concerns about the long term maintenance of the ditch between the road and the property which is a vital part of the village storm water drainage and requests that this is clarified, and appropriate action taken, before any construction is allowed.

23. Previous Comments submitted in March 2020.

24. Waterbeach PC recommends refusal of this planning application as this area sits outside the village envelop (Local Plan S7 Development outside Development Framework). The current property has an agricultural restriction and would be the loss of a substantial property in the street scene of Bannold Road. Additional houses would put pressure on the local infrastructure including the water treatment and medical facilities.  
The Council also concur with the Tree Officers comments.

25. **Contaminated Land Officer** – No objection, subject to conditions.

26. I wish to confirm that I have received a copy of the above application and have considered the implications of the proposals in relation to potential risks from contaminated land. Specifically, I have reviewed JPC Environmental Services Ltd 'Phase I Contaminated Land Assessment' dated 22nd August 2019.

27. The site is generally low risk in terms of contamination but is being developed into a sensitive end use so I agree with the findings of the report in that an intrusive site investigation should be carried out in order to further assess the identified risks. The investigation should target the areas of the site outlined within the Phase I report.

28. Recommend condition requiring a risk assessment, a remediation method statement, a verification report and the identification of any contamination not considered in the remediation method statement.

**Ecology Officer – No objection, subject to conditions.**

29. The site consists of a dwelling house and private garden, with wooded boundaries to the north, east, and west. The site sits within the Impact Risk Zone of a nearby statutory protected site; however, it does not meet the criteria that would require a consultation with Natural England. I am not aware of any non-statutory protected sites in the area that are likely to be affected by such a consultation. Species records show that amphibians, breeding birds, bats, and badger have all been recorded locally. I am also aware that large populations of common lizard and water vole have been recorded in the area to the north allocated as the new Waterbeach Town.

30. In support of the application the applicant has submitted an Ecological Assessment (Hopkins Ecology, January 2020). The report has no evidence of bats within the building to be demolished, nor any likelihood of great crested newts being affected. I therefore have no reason to require further information to be submitted prior to determination. The report has recommended a non-licensable mitigation strategy to remove any residual risk of harming protected species, in addition to enhancement of any future landscape plans. I am in agreement with a majority of the report and would recommend the following two conditions are included in any decision notice issues, should the Case Officer be minded to recommend permission is granted.

Recommended conditions:

31.
  1. Construction Ecological Management Plan (CEcMP).
  2. Landscape and Ecological Management Plan (LEMP).

**Local Highways Authority – No objection.**

32. Recommend conditions relating to pedestrian visibility splays, driveway falls and levels, driveway material, access width, traffic management plan and the proposed arrangements for future management and maintenance of the proposed road. An informative relating to works to or within the public highway has also been requested.

**Waste and Environment - Environmental Health No objection.**

33. Recommended conditions:
34.
  1. Construction and delivery hours
  2. Construction environmental management plan

Informatives:

35.
  1. Demolition notice

2. Air source heat pumps

**Trees Officer** – No objection.

36.

Trees on or adjacent the site have no statutory protection.

37.

The Preliminary Impact Assessment Report (dated November 2019) is sufficient for this site and development – this can be an approved document.

38.

39.

The roadside boundary hedge is an important feature of the site and street-scene and should be retained throughout. Ideally this hedgerow should be protected in perpetuity.

40.

Any areas which are privately owned public open space will require an indication of who will own them, a planting plan / specification and a future management plan.

43. **Sustainable Drainage Officer** – No objection.

44.

The proposals are not in accordance with South Cambs adopted Policy CC/7 Water Quality and Policy CC/8 Sustainable Drainage as they have not demonstrated suitable surface water and foul water drainage provision for the proposed development therefore the following conditions are required.

45.

Recommended conditions

1. Surface water and foul water

**Representations**

46.

12 representations from 9 residents and 1 Councillor have been received raising objection to the proposed development. Full redacted versions of these comments can be found on the Council's website. In summary the following concerns have been raised:

- The land has an Agricultural Occupancy Condition and it has not been demonstrated that there is no requirement for the dwelling within the region. This condition should not be relaxed for overdevelopment.
- Construction disruption (local environment, roads, parking pressure and amenity).
- Does not fall under the presumption of sustainable development where there are less than 30 houses in a Minor Rural Centre, as it falls outside the development framework of Waterbeach.
- Land not under-utilised as extensive development in the surrounding area and the presence of the existing dwelling on site.
- Overdevelopment of the site

- The proposed building line is too close to Bannold Road and would not be in keeping with the surrounding developments which have all been stepped back.
  - Impact on biodiversity / loss of habitat (conflict with policy S/2(b)).
  - Impact on surface water drainage, foul drainage systems and flood risk.
  - Inadequate amount of visitor parking.
  - Layout is out of keeping with current property lines which are set back (conflict with policy H/16).
  - Loss of light, loss of privacy, overbearing impact to Barnfield Close and Star Drive properties (conflict with HQ/1 and H/16).
  - Loss of openness along Bannold Road and Barnfield Close
  - Loss of garden land
  - Loss of trees.
  - The Arboricultural survey is not clear whether the trees on the north-western corner have been considered or will be removed.
  - The Biodiversity report has deficiencies as it leaves out local ponds and the bat survey is limited. Biodiversity net gain is required.
  - No references to climate change construction techniques or adaptations / mitigations (including promotion of active travel).
  - Parking pressure on Bannold Road (adequate parking is not provided) and consequent impact on traffic flow.
  - Highway safety, due to the increase in vehicular movements, and increased traffic.
  - Disproportionate use of motor vehicles encouraged due to parking provision on site.
  - Extra emissions will have a negative impact on air quality.
  - Piecemeal development (contrary to DP/5)
  - Plot is not big enough for 5 houses.
  - Dwelling mix does not meet local need.
  - Site is outside of the development framework (conflict with policy S/6 and S/7).
  - Site plan does not show location of windows, these should not be on the side elevation to preserve amenity of neighbours.
  - Waterbeach surgery is over capacity.
  - Impact on broadband capacity.
  - The granting of outline permission with both layout and scale as reserved matters is not appropriate.
47. Extensive correspondence has taken place with Fewes Lane Consortium Limited, for reference see appendix 2.

## **Planning Assessment**

### **Site and Surroundings**

48. The application site is located just outside of the development framework boundary of Waterbeach with the framework boundary abutting the southern boundary of the application site. The site lies predominately within Flood Zone 1 (low risk) while a small northern section of the site is identified as an area of

surface water flooding of 1 in 1,000. Over 350 metres from the site is the edge of Waterbeach Conservation Area and no listed buildings are located within the vicinity.

49. The site is surrounded by existing residential development. To the south of the site, within the development framework boundary, are properties along Bannold Road. To the north, east and west of the site, areas outside of the development framework boundary, are residential properties on Star Drive (north), Barnfield Close (east) and Bannold Road and Mason Road (west). There is a small vacant field approximately 37 metres in width between the western boundary of the site and the properties of Mason Road. This parcel of land recently gained consent for 21 dwellings via appeal against the Council's decision to refuse the application (S/4744/18/FL). A subsequent application for residential development, reference 20/02460/FUL, is currently under consideration by Officers.

### **Proposal**

50. This application seeks outline planning permission with all matters reserved except for access for the demolition of the existing house and the erection of five dwellings. An indicative site layout plan is submitted in support of the proposal showing five detached properties located within the site and a private access road running up the central west section of the site serving a turning head and parking areas.

### **Background**

51. A previous planning application for this site was submitted to the Council (ref 20/01138/OUT) and withdrawn prior to it being presented to Planning Committee. The current application is similar to this previously withdrawn application but additionally includes the access connecting the site to the adopted highway at Bannold Road. A Judicial Review pre-action protocol notification was formally submitted to the Council regarding the necessary extent of the red line plan. After receiving Counsel's legal advice, officers consider that the red line as currently submitted is sufficient and that all necessary visibility splays as required by the Highway Authority are either within the red line or within land which is the adopted highway. There remains an ongoing dispute as to the red line location plan and whether the red line includes all of the land to which the application relates. Attached to this report is extensive correspondence with Few's Lane and which correspondence remains unresolved. The legal officer will be available to answer any questions at Planning Committee.

### **Key Issues**

52. The key issues to consider in the determination of this application are the principle of development, housing provision, access, highway safety and parking provision, character / visual amenity, residential amenity, biodiversity, trees / landscaping, flood risk and drainage, contamination, renewables /

climate change, agricultural occupancy condition, developer contributions and other matters.

### **Principle of Development**

53. The Council's strategy for managing housing growth is set out in Chapter 2 'Spatial Strategy' of the South Cambridgeshire Local Plan 2018.
54. The strategy outlines the settlement hierarchy where lastly development is focused on existing settlements using defined development frameworks. The principal reasons for this are two-fold: to prevent development encroaching upon the countryside and to prevent unsustainable growth in areas where there is insufficient infrastructure to support such development.
55. Policy S/7 (criterion 2) of the Local Plan states that outside development frameworks, only allocations within Neighbourhood Plans that have come into force and development for agriculture, horticulture, forestry, outdoor recreation and other uses which need to be located in the countryside or where supported by other policies in this plan will be permitted.
56. The site is located outside of the defined village development framework of Waterbeach and is therefore technically within the countryside. This proposal for residential development would therefore be contrary to policy S/7 as a matter of principle.
57. Despite the in-principle conflict with policy S/7, the site is surrounded by residential development, which acts as a buffer to the countryside beyond. The only exception to this is the site adjacent to the west, a vacant field. This vacant plot west of the application site recently gained consent at appeal where the Inspectorate stated that by virtue of the existing developments to the west and east of the site, the character of the area had substantially changed and thus the site had more affinity to these suburban existing developments and contributed less to the character of the countryside. The Inspector stated that "the countryside should not be protected for its own sake, rather paragraph 170 of the NPPF states recognition should be given to the intrinsic character and beauty of the countryside". This appeal reinforces Officers' view that due to the residential development surrounding the development site in question, the immediate surroundings do not substantiate countryside and therefore, the development would not be contrary to the first aim of the housing growth strategy and would not represent a form of development encroaching into the countryside.
58. The second aim of the strategy guards against piecemeal unsustainable growth. Policy S/9 designates Waterbeach as a Minor Rural Centre and states that residential development and redevelopment within the development framework of Minor Rural Centres will be permitted up to an indicative maximum of 30 dwellings.
59. The supporting text to the policy details in paragraph 2.59 that Minor Rural Centres have a lower level of services, facilities and employment than Rural

Centres, but a greater level than most other villages in South Cambridgeshire, and often perform a role in terms of providing services and facilities for a small rural hinterland. While the application site is situated outside of the development framework boundary and therefore technically policy S/9 is not engaged, the scale of the development (5 dwellings, net gain of 4) would align with the scale of development permitted by S/9. The site is within a reasonable distance to a range of services and facilities within the village, including sustainable transport modes which provide regular train and bus services to surrounding centres. Furthermore, once Waterbeach New Town (policy SS/6) is developed, the site would be within close proximity to further services and facilities which occupants would have access to.

60. Taking the above into account, Officers consider that a departure from policy S/7 of the Local Plan would be justified in this instance as the proposed development would not conflict with the overarching aims and objectives of the housing strategy which the policy seeks to protect. Planning decisions must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (section 70(2) of the Town and Country Planning Act 1990 and section 38[6] of the Planning and Compulsory Purchase Act 2004). This is a clear case, reinforced by the recent decision of the Inspector, where officers advise that material circumstances indicate otherwise and the principle of the redevelopment of the site for housing should be supported.

### **Housing Provision**

61. The application seeks outline planning permission with all matters reserved except for access for the demolition of the existing house and the erection of five dwellings.

### Housing Density

62. Policy H/8 of the Local Plan details that housing developments will achieve an average net density of 30 dwellings per hectare in Minor Rural Centre villages but that the net density on a site may vary from the above where justified by the character of the locality, the scale of the development, or other local circumstances.
63. The overall site measures approximately 0.23 hectares in area. The development of 5 dwellings on the site would equate to a density of approximately 18 dwellings per hectare.
64. Therefore, the density of development on the site would be below the requirement of an average net density of 30 dwellings per hectare. Yet the proposed density is considered to be in character with the area, given that the adjacent development of Barnfield Close has a comparable density of approximately 21 dwellings per hectare.
65. Officers also acknowledge that the development of Anglers Way and Barnfield Close to the east of the site all have properties set back from the public

highway; a higher density on the site would likely require dwellings sited closer to the public highway.

66. The proposed density is therefore justified and there is no conflict with Policy H/8 of the Local Plan.

#### Housing Mix

67. Policy H/9 of the Local Plan requires a wide choice, type and mix of housing to be provided to meet the needs of different groups in the community including families with children, older people, those seeking starter homes, people wishing to build their own homes, people seeking private rented sector housing, and people with disabilities. For development on sites of 9 homes or fewer, the mix of market homes will take account of local circumstances (criterion 3). 5% of homes in a development should be built to the accessible and adaptable dwellings M4(2) standard rounding down to the nearest whole property (criterion 4).
68. The proposed 5 dwellings would therefore need to provide a range of dwelling types and sizes to account of local circumstances to comply with Policy H/9. As the application is currently at outline stage with all matters reserved apart from access, it is considered that the exact mix of the market dwellings could be agreed at the reserved matters stage. A condition is recommended to secure this. Officers consider it reasonable and necessary to impose a condition that requires details of the housing mix to be submitted as part of any reserved matters application to ensure compliance with policy H/9 of the Local Plan.

#### Affordable Housing

69. The proposal would result in a net increase of four dwellings.
70. Policy H/10 of the Local Plan states that 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. This reflects the Written Ministerial Statement (WMS) issued in 2014.
71. The NPPF 2019 paragraph 63 states that provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer). This is a material consideration.
72. No affordable housing is provided within the development. The development of five dwellings would fall below the numerical threshold for affordable housing

73. and is very unlikely to exceed 1,000 square metres. There are no other policy requirements for this scale of development.
74. The need for affordable housing as per policy H/10 and NPPF 2019 guidance does not arise from the proposal.

#### Residential Space Standards

75. Policy H/12 of the Local Plan states that new residential units will be permitted where their gross internal floor areas meet or exceed the Government's Technical Housing Standards – Nationally Described Space Standard (2015) or successor document. Officers consider it reasonable and necessary to impose a condition that any future reserved matters application accords with the requirements of policy H/12.

#### **Access, Highway Safety and Parking Provision**

76. The existing site has a vehicular access directly onto Bannold Road. This access is retained and expanded as part of the proposal. An access plan has been submitted in support of the application which shows the required vehicular visibility splays of 43 metres by 2.4 metres. The plan also demonstrates an access width of approximately 5 metres which would allow two vehicles to pass one another clear of the adopted public highway.
77. The application has been subject to formal consultation with the Local Highways Authority who raise no objection to the proposed development. The proposed development has therefore demonstrated that it will achieve safe and suitable vehicular access to the site which will not result in significant harm to highway safety.
78. In consultation with the Local Highways Authority, officers consider it reasonable and necessary to impose conditions for driveway falls and levels, driveway material and traffic management to ensure the development does not result in significant harm to highway safety. An informative relating to works to or within the public highway is also considered appropriate. Highways ask for a condition relating to pedestrian visibility splays also. Officers recommend condition 9 to control boundary treatment details so that visibility splays within the applicant's direct control (on land within their ownership) on that part of the site adjoining the adopted highway are achieved as necessary.
79. Subject to the recommended conditions, the proposal is not considered to result in significant harm to highway safety and to accord with policies H/16(b.iv) and TI/2 of the Local Plan and paragraphs 108 and 110 of the NPPF.
80. Policy TI/3 of the Local Plan requires car parking provision to be provided through a design-led approach in accordance with the indicative standards of 2 spaces per dwelling (1 space to be allocated within the curtilage), noting that additional provision may be needed for visitors, service vehicles and salesmen. Although illustrative, the layout plan submitted demonstrates that sufficient

parking would be provided, for both residents and visitors of the site. Officers are satisfied that the site is of sufficient size that appropriate levels of off-road parking could be achieved, which would be detailed at reserved matters stage. The proposal would therefore accord with policies H/16(b.v) and TI/3 of the Local Plan.

81. Please see comments under paragraph 51 sub-heading background and the correspondence in appendix 2 as to a dispute raised by Few's Lane Consortium Ltd as to whether the red line contains all land to which the application relates.

### **Character / Visual Amenity**

82. The existing dwelling on the site is a detached two storey residential property located within a spacious plot. The area surrounding the application site is predominately developed with residential dwellings with the exception of the land bordering the site to the west. The area to the south of the site is characterised by two storey semi-detached properties fronting and relatively close to Bannold Road. To the east of the site is the new residential development of Barnfield Close which comprises a mixture of detached and semi-detached two storey residential properties. To the north are more two storey detached and semi-detached residential properties on Star Drive. Immediately to the west of the site is a vacant parcel of land, gained consent for two storey dwellings and beyond which lies more residential development of a two storey scale.
83. An illustrative site layout has been submitted as part of the application but the precise siting of the dwellings is a reserved matter which will be considered at a later stage. Nonetheless, officers are satisfied that five dwellings could be accommodated within the site in a manner which would respect the character of the area, noting that development to the east of the site is stepped back from the public highway.
84. The introduction of five dwellings on the site is not considered to result in significant harm to the character and appearance of the area, given the surrounding existing and consented dwellings, providing a suitable scheme is presented at reserved matters stage, including details of the landscaping of the site. The existing building is a two storey property and the development surrounding the site is two storey. However, no details are provided of the heights of the buildings at this stage and this will be considered further at the reserved matters stage. This is an outline application and whilst the design and layout details of the scheme are not submitted for approval, given the low density of the proposal, officers are satisfied a reserved matters application could come forward and easily satisfy policies HQ/1 and H/16(b.i and b.iii) of the Local Plan.

### **Residential Amenity**

85. The application is in outline form with matters of scale, layout, landscaping and appearance reserved for later approval, therefore the final layout of the site

and the scale and appearance (i.e. fenestration details) of the properties is not known. The application is supported by an indicative site layout to demonstrate that five dwellings could be arranged within the bounds of the site.

86. Officers acknowledge the concerns raised by third parties with regards to a potential overbearing impact, loss of privacy and loss of light from the proposed development, particularly as arranged in the indicative site layout plan.
87. Given the extent of the site, noting a density of approximately 18 dwellings per hectare, officers are satisfied that five dwellings could be accommodated on site in a manner which would not result in significant harm to neighbouring properties through an unduly overbearing mass, significant loss of light or privacy. These matters would be considered further at the reserved matters stage.
88. Given the siting of the access and number of units proposed, the proposed development is not considered to lead to an unacceptable level of noise and disturbance to neighbouring properties.
89. The proposal is considered to accord with policies HQ/1(n) and H/16(b.ii) of the Local Plan.

### **Biodiversity**

90. An Ecological Assessment (including bat surveys) has been submitted in support the proposed development. The Council's Ecology Officer has been subject to formal consultation.
91. The Council's Ecology Officer notes that the report states that there is no evidence of bats within the existing building proposed to be demolished, nor any likelihood of great crested newts being affected, therefore no further information is required at this stage.
92. The Council's Ecology Officer has recommended a condition to be imposed as part of any consent. This condition requires the submission of a Construction Ecological Management Plan (CEcMP) to protect existing habitats and protected species on site and enhance biodiversity on site.
93. Subject to the recommended conditions, officers consider that the proposal would accord with policies NH/4 and H/16(b.vii) of the Local Plan and paragraphs 170, 174, and 175 of the NPPF which requires development to enhance, restore and add to biodiversity with opportunities should be taken to achieve a net gain in biodiversity through the form and design of development.

### **Trees / Landscaping**

94. Several mature trees are sited along the western and northern boundaries of the site, with hedgerows present along parts of the eastern and southern boundaries. Domestic planting and landscaping is also within the site. A

preliminary Arboricultural Impact Assessment Report has been submitted in support of the application and has been subject to formal consultation with the Council's Trees Officer who raises no objection.

95. The Council's Tree Officer emphasises the importance of the roadside boundary hedge within the street scene, stating this should ideally be retained and protected in perpetuity. Officers' note that as the application is outline only with matters of layout and landscaping reserved, a further assessment will be carried out once the precise layout is known at the reserved matters stage.
96. Officers consider it reasonable and necessary to impose a condition that any reserved matters application is supported by an Arboricultural Method Statement and Tree Protection Plan. Detailed landscape plans, including planting specifications, would be expected to be submitted to address the matter of 'landscape'.
97. While landscape is a reserved matter, officers consider it reasonable and necessary to impose a condition that all hard and soft landscape details are carried out in accordance with the approved details, which are to be submitted and considered as part of a reserved matters application.
98. Subject to the recommended conditions, the proposal is considered to accord with policies HQ/1, NH/4 and H/16(b.vii) of the Local Plan.

### **Flood Risk and Drainage**

99. As the application site is in Flood Zone 1, the site is considered as having low probability of flooding. A small northern section of the site is identified as an area prone of surface water flooding.
100. The development is not considered to increase the risk of flooding to the site and surrounding area, subject to an acceptable scheme of surface water and foul drainage that is maintained for the lifetime of the development. Officers therefore consider it reasonable and necessary to impose a condition for details of foul water and surface water drainage that can be maintained for the lifetime of the development to ensure the development is acceptable in terms of flood risk and drainage.
101. Subject to the recommended condition, the proposal would accord with policies CC/7, CC/8 and CC/9 of the Local Plan which requires developments to have appropriate sustainable foul and surface water drainage systems and minimise flood risk.

### **Contamination**

102. The application is supported by a Phase I Contaminated Land Assessment and has been subject to formal consultation with the Council's Contaminated Land Officer.
103. The Council's Contaminated Land Officer notes that the site is generally low risk in terms of contamination but is being developed into a sensitive end use and agrees with the findings of the report in that an intrusive site investigation should be carried out in order to further assess the identified risks; the investigation should target the areas of the site outlined within the Phase I report.
104. The Council's Contaminated Land Officer has recommended a condition be imposed requiring a risk assessment, a remediation method statement, a verification report and the identification of contamination identified on site that was not considered in the remediation method statement.
105. Subject to the recommended conditions, officers consider that the proposal would accord with policy SC/11 of the Local Plan

#### **Renewables / Climate Change**

106. Policy CC/3 of the Local Plan states that proposals for new dwellings will be required to reduce carbon emissions by a minimum of 10% (to be calculated by reference to a baseline for the anticipated carbon emissions for the property as defined by Building Regulations) through the use of on-site renewable energy and low carbon technologies.
107. Policy CC/4 of the Local Plan states that all new residential developments must achieve as a minimum water efficiency equivalent to 110 litres per person per day
108. Officers consider it reasonable and necessary to impose conditions requiring a scheme to demonstrate a minimum reduction of 10% of carbon emissions and that the dwellings achieve a minimum water efficiency consumption of 110 litres use per person per day, in accordance with Part G of the Building Regulations 2010 (as amended 2016).
109. Subject to the recommended conditions the proposal would accord with policies CC/4 and CC/5 of the Local Plan.

#### **Agricultural Occupancy Condition**

110. The existing property is subject to an agricultural occupancy condition imposed under planning consent S/1364/83/F with condition 1 stating:

'The occupation of the dwelling shall be limited to a person solely or mainly employed in the locality in agriculture as defined in Section 290(1) of the Town and Country Planning Act 1971, or in forestry

(including any dependants of such person residing with him), or a widow or widower of such person.'

111. Under the current adopted plan, policy H/19 of the Local Plan details support for dwellings to support a rural-based enterprise (i.e. residential development outside of a development framework boundary for an identified and specific need). Policy H/19 states that proposals for permanent dwellings in the countryside for full-time workers in agriculture or forestry or in another business where a rural location is essential, will be permitted if special circumstances can be demonstrated by it meeting all five criteria set out within the policy.
112. Policy H/19(3) details that where a new dwelling is permitted, this will be the subject of a condition ensuring the occupation will be limited to a person solely or mainly working, or last working in the locality in agriculture, forestry or in another business where a rural location is essential, or a surviving partner of such a person, and to any resident dependents.
113. Policy H/19(4) of the Local Plan addresses the relaxation of the occupancy condition and details that the relaxation of an occupancy condition will only be permitted where it can be demonstrated that a) there is no longer a continued need for the dwelling on the site; b) there is no long term need for a dwelling with restricted occupancy to serve need in the locality, c) the property has been marketed locally for a reasonable period (minimum 12 months) at a price which reflects the existence of the occupancy condition.
114. Therefore, policy H/19 of the Local Plan focuses on proposals for new dwellings to support a rural enterprise and supports removal of related occupancy conditions subject to specific criteria. In this instance, the application proposes the demolition of the existing property and the redevelopment of the site, rather than the specific removal of the condition to allow the existing property to be marketed at full market value. Officers are therefore of the view that the proposal would not conflict with the aims and objectives of policy H/19, noting the limited extent of the site which could not be occupied as a smallholding and that the site now falls within a built up area of the extended village of Waterbeach.
115. The proposal is not considered to conflict with policy H/19 of the Local Plan.

#### **Developer Contributions**

116. Policy TI/8 of the Local Plan 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.

117. Regulation 122 of the CIL Regulations states that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is –
- a) necessary to make the development acceptable in planning terms;
  - b) directly related to the development; and
  - c) fairly and reasonably related in scale and kind to the development.

In this case, the need for contributions are not considered necessary to make the development acceptable due to the Written Ministerial Statement dated 28 November 2014 that states 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 1000sqm.

### **Other Matters**

#### *Broadband*

118. Policy TI/10 requires that infrastructure be imposed to create access to broadband internet respectively. Officers consider it reasonable and necessary to impose a condition to require that the requirements of policy TI/10 are satisfied.

#### *Development of Residential Gardens (Policy H/16)*

119. Policy H/16 of the Local Plan supports the development of land used or last used as residential gardens subject several criteria. Most of the criteria have been assessed above but the other criteria are considered below.
120. Policy H/16(a) is not applicable to this proposal as the development is not for the one-to one replacement of a dwelling in the countryside under policy H/14 of the Local Plan.
121. Policy H/16(b.vi) requires consideration of the impact on heritage assets; the site is not in close proximity to Waterbeach Conservation Area or any listed buildings and therefore accords with policy H/16(b.vi).
122. Policy H/16(b.viii) seeks to ensure that the form of development would not prevent the development of adjoining sites. Officers do not consider that the proposal would prevent the development of adjoining sites and therefore accords with policy H/16(b.viii).

#### *Noise & Lighting*

123. Officers consider it reasonable and necessary to impose conditions restricting the hours of works on site and the installation of external lighting along with informatives for burning of waste, driven pile foundations, minimising disturbance to neighbours, demolition notice and air source heat pumps.

124. Subject to the recommended condition, the proposal would accord with policies HQ/1 and CC/6 of the Local Plan.

*Rural Exception Site Affordable Housing*

125. Policy H/11 of the Local Plan sets out the Council's policy for rural exception sites where affordable housing developments to meet identified local housing needs on small sites adjoining a development framework boundary will be supported, subject to satisfying several criteria. Such developments are found in a countryside setting, beyond a development framework boundary.
126. The application site is located outside the development framework boundary of Waterbeach but does adjoin the framework on the southern boundary of the site. Therefore, the site has the potential to qualify for development under policy H/11 of the Local Plan, should a development for affordable housing be proposed.
127. However, the application submitted is not for the development of affordable housing and has been made for market housing, falling outside of the scope of policy H/11. This is because, as detailed in paragraphs 34 to 38 of this report, although the site is outside of the development framework boundary it is surrounded by residential development which effectively separates the site from the open countryside beyond, materially changing the context of the site. As noted above, officers are of the view that the site and its immediate surroundings cannot be categorised as being 'countryside' to which the proposal would 'encroach into'. Therefore, an application for market housing is considered acceptable within this context for the reasons set out in this report.

*Third Party Comments*

128. The comments made in third-party representations are noted, with many points already considered in the report. Comments have been raised which relate to layout and design, these matters are reserved and will be fully assessed at reserved matter stage. The remaining matters raised are considered below.
129. One representation states that the application represents piecemeal development in conflict with policy DP/5. Policy DP/5 was an adopted policy under the Local Development Framework (2007) and is not a current adopted policy as part of the South Cambridgeshire Local Plan 2018. Therefore, this carries no weight.
130. One representation noted that the land was not under-utilised given the extensive development surrounding the application site and the dwelling currently present. Officers consider that the proposal results in an enhanced use of land in terms of housing delivery whilst respecting the surrounding settlement pattern.

131. One representative states that the granting of outline permission with both layout and scale as reserved matters is not appropriate. Outline permission which reserves both layout and scale is common and appropriate.
132. One representative has raised concerns regarding disruption resulting from the construction phases of development. To mitigate against harmful noise and disturbance to residential occupiers, a construction and delivery hours condition is recommended and is considered reasonable and necessary to impose. Parking of construction vehicles is likely to occur; however, officers consider that this will not be significant as it will be for a temporary period and a relatively minor development. Concerns were also raised relating to additional carbon emissions arising from the development impacting upon air quality. Yet, given the proposal is for five residential dwellings, officers consider that the proposal will not generate significantly increased traffic movements to result in a harmful air quality, especially given the existing and proposed amenities within Waterbeach and Waterbeach NT.
133. The impact on broadband capacity has been raised as a concern by a third-party representative. Policy TI/10 requires new development to contribute towards the provision of infrastructure suitable to enable the delivery of high-speed broadband services across the district. To ensure compliance with policy TI/10 and not compromise the broadband of neighbouring properties, a condition is recommended. Concerns were also raised in relation to capacity at the Waterbeach GP surgery. Given the minor increase in population this development would cause, officers consider that this development would not overwhelm the existing services to a significant degree.

### **Planning Balance and Conclusion**

134. Planning decisions must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (section 70(2) of the Town and Country Planning Act 1990 and section 38[6] of the Planning and Compulsory Purchase Act 2004). This is a clear case, reinforced by the recent appeal decision of the Inspector, where officers advise that material circumstances indicate otherwise and the principle of the redevelopment of the site for housing should be supported.
135. Whilst the proposal would be contrary to policy S/7 of the adopted Local Plan as a matter of principle, there would be limited harm caused to the main aims and objectives of this policy in terms of encroachment into the countryside or the sustainability of the development.
136. For the reasons set out in this report, officers consider the outline planning application to be acceptable subject to conditions and the application is recommended for approval.

### **Recommendation**

137. Officers recommend that the Planning Committee **APPROVE** the application subject to the following conditions:

### **Conditions**

- 1 Approval of the details of scale, layout, appearance and landscaping (hereinafter called 'the reserved matters') shall be obtained from the Local Planning Authority in writing before any development is commenced.  
(Reason - The application is in outline only.)
- 2 Application for the approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.  
(Reason - The application is in outline only.)
- 3 The development hereby permitted shall begin not later than the expiration of two years from the date of approval of the last of the reserved matters to be approved.  
(Reason - The application is in outline only.)
- 4 No development shall take place until:
  - a) The application site has been subject to a detailed scheme for the investigation and recording of contamination and remediation objectives have been determined through risk assessment and agreed in writing by the Local Planning Authority.
  - b) Detailed proposals for the removal, containment or otherwise rendering harmless any contamination (the Remediation method statement) have been submitted to and approved in writing by the Local Planning Authority.

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 SC/11 of the adopted South Cambridgeshire Local Plan 2018.
- 5 Prior to the first occupation of the dwellings hereby permitted, the works specified in any remediation method statement detailed in must be completed and a Verification report submitted to and approved in writing by the Local Planning Authority.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers,

neighbours and other offsite receptors in accordance with Policy SC/11 of the adopted South Cambridgeshire Local Plan 2018.

- 6 If, during remediation or construction works, any additional or unexpected contamination is identified, then remediation proposals for this material should be agreed in writing by the Local Planning Authority before any works proceed and shall be fully implemented prior to first occupation of the dwellings hereby approved.

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 SC/11 of the adopted South Cambridgeshire Local Plan 2018.

- 7 No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Ecological Management Plan (CEcMP) has been submitted to and approved in writing by the local planning authority. The CEcMP shall include the following:

- i) Risk assessment of potentially damaging construction activities.
- ii) Identification of "biodiversity protection zones".
- iii) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- iv) The location and timings of sensitive works to avoid harm to biodiversity features.
- v) The times during which construction when specialist ecologists need to be present on site to oversee works.
- vi) Responsible persons and lines of communication.
- vii) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- viii) Use of protective fences, exclusion barriers and warning signs if applicable.

The approved CEcMP shall be ahead to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

(Reason - To protect existing habitats and protected species on site and to enhance the site for biodiversity in accordance with the NPPF, the NERC Act 2006 and Policy NH/4 of the South Cambridgeshire Local Plan 2018.)

- 8 Prior to or concurrently with the submission of the first approval of reserved matters a Landscape and Ecological Management Plan (LEMP) shall be submitted to, and approved in writing by, the local planning authority. The content of the LEMP shall include the following:

- i) Description and evaluation of features to be managed.

- ii) Ecological trends and constraints on site that might influence management.
- iii) Aims and objectives of management, including how positive gains in biodiversity will be achieved.
- iv) Appropriate management options for achieving aims and objectives.
- v) Prescriptions for management actions.
- vi) Prescription of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- vii) Details of the body or organisation responsible for implementation of the plan.
- viii) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results form monitoring show that conservation aims and objectives of the LEMP are not being met) contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

(Reason - To provide habitat for wildlife and enhance the site for biodiversity in accordance with the NPPF, the NERC Act 2006 and Policy NH/4 of the South Cambridgeshire Local Plan 2018.)

- 9 Where that part of the frontage of the site adjoins the adopted highway, two pedestrian visibility splays of 2 metres x 2 metres either side of the vehicular access measured from and along the front of the site where it adjoins the adopted highway shall be provided prior to the occupation of the dwellings and retained as such. The splays shall thereafter be maintained free from any obstruction exceeding 0.6metres and shall be shown on the landscaping plans which form part of the relevant reserved matters application.

(Reason - To ensure the safe and effective operation of the highway in accordance with policy TI/2 of the South Cambridgeshire Local Plan 2018 and paragraphs 108 and 110 of the National Planning Policy Framework 2019.)

- 10 The proposed access shall be constructed so that their fall and levels are such that no private water from the site drains across or onto the adopted public highway.

(Reason - To ensure the safe and effective operation of the highway in accordance with policy TI/2 of the South Cambridgeshire Local Plan 2018 and paragraphs 108 and 110 of the National Planning Policy Framework 2019.)

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

(Reason - To ensure the safe and effective operation of the highway in accordance with policy TI/2 of the South Cambridgeshire Local Plan 2018 and paragraphs 108 and 110 of the National Planning Policy Framework 2019.)

- 12 The access shall be a minimum width of 5m, for a minimum distance of 10m measured from the near edge of the highway boundary as shown on submitted drawing titled: visibility splay & access width.

(Reason: In the interests of highway safety in accordance with policy TI/2 of the South Cambridgeshire Local Plan 2018 and paragraphs 108 and 110 of the National Planning Policy Framework 2019.)

- 13 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
- ii) Contractor parking
- iii) Movements and control of all deliveries
- iv) Control of dust, mud and debris, in relationship to the functioning of the adopted public highway.

Works shall be carried out in accordance with the approved details.

(Reason - In the interests of residential amenity and highway safety in accordance with Policies HQ/1, CC/6 and TI/2 of the South Cambridgeshire Local Plan 2018).

- 14 No development shall commence until details of the proposed arrangements for future management and maintenance of the proposed road within the development has been submitted to and approved in writing by the Local Planning Authority (The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as a Private Management and Maintenance Company has been established).

(Reason: To ensure satisfactory development of the site and to ensure the road is managed and maintained thereafter to a suitable and safe standard in accordance with policy TI/2 of the South Cambridgeshire Local Plan 2018 and paragraphs 108 and 110 of the National Planning Policy Framework 2019.)

- 15 No construction site machinery or plant shall be operated, no noisy works shall be carried out and no construction related deliveries taken at or dispatched from the site except between the hours of 0800-180 Monday to Friday, 0800-1300 Saturday and not at any time on Sundays or Bank or Public Holidays.

(Reason - To minimise noise disturbance for adjoining residents in accordance with Policy CC/6 of the South Cambridgeshire Local Plan 2018).

- 16 No development (including any site clearance/preparation works) shall be carried out until a Construction Environmental Management Plan has been submitted to and approved by the Local Planning Authority. Details shall provide the following, which shall be adhered to throughout the period of development:

a) Full details of any piling technique to be employed, if relevant

b) Contact details for the site manager, including how these details will be displayed.

(Reason - To minimise noise disturbance for adjoining residents in accordance with Policy CC/6 of the South Cambridgeshire Local Plan 2018).

- 17 As part of any reserved matters application an Arboricultural Method Statement and Tree Protection Plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with such approved details.

(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 the policies HQ/1 and NH/4 of the South Cambridgeshire Local Plan.)

- 18 No development shall take place until a scheme for the disposal of surface water and foul water drainage that can be maintained for the lifetime of the development has 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 a satisfactory method of surface water drainage and foul water drainage to prevent the increased risk of flooding and pollution to the water environment in accordance with policies CC/7, CC/8 and CC/9 of the South Cambridgeshire Local Plan 2018.)

- 19 The market mix of the dwellings shall comply with Policy H/9 of the Local Plan and a justification of the local circumstances demonstrated through the provision of evidence within the submission of any reserved matters application.

(Reason - To ensure an appropriate mix of market housing in accordance with policy H/9 of the adopted Local Plan 2018).

- 20 All dwellings shall comply with the Residential Space Standards set out under Policy H/12 of the Local Plan and demonstrated through the provision of floorspace details within the submission of any reserved matters application.

(Reason - To ensure an appropriate level of amenity for future occupiers in accordance with policy H/12 of the adopted Local Plan 2018.)

- 21 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 HQ/1, NH/4 and NH/8 of the South Cambridgeshire Local Plan 2018).

- 22 No development above slab level shall take place until a scheme has been submitted that demonstrates a minimum of 10% of carbon emissions (to be calculated by reference to a baseline for the anticipated carbon emissions for the property as defined by Building Regulations) can be reduced through the use of on-site renewable energy and low carbon technologies. The scheme shall be implemented and maintained in accordance with the approved details prior to the occupation of the development.

(Reason - In accordance with policy CC/3 of the South Cambridgeshire Local Plan 2018 and paragraphs 148, 151 and 153 of the National Planning Policy Framework 2018 that seek to improve the sustainability of the development, support the transition to a low carbon future and promote a decentralised, renewable form of energy generation.)

- 23 The dwellings hereby approved shall not be occupied until the dwelling to be occupied has been made capable of accommodating Wi-Fi and suitable ducting (in accordance with the Data Ducting Infrastructure for New Homes Guidance Note) has been provided to the public highway that can accommodate fibre optic cabling or other emerging technology, unless otherwise agreed in writing with the Local Planning Authority.

(Reason - To ensure sufficient infrastructure is provided that would be able to accommodate a range of persons within the property and improve opportunities for home working and access to services, in accordance with policy TI/10 of the South Cambridgeshire Local Plan 2018.)

- 24 No external lighting shall be provided or installed within the site other than in accordance with a scheme which has been submitted to and approved in writing by the Local Planning Authority. The lighting shall be installed prior to the occupation of the development and thereafter retained.

(Reason -To minimise the effects of light pollution on the surrounding area in accordance with Policy SC/9 of the South Cambridgeshire Local Plan 2018).

- 25 The dwellings hereby approved shall not be occupied until the minimum water efficiency consumption of 110 litres use per person per day, in accordance with Part G of the Building Regulations 2010 (as amended 2016) has been complied with.

(Reason - To improve the sustainability of the dwelling and reduce the usage of a finite and reducing key resource, in accordance with policy CC/4 of the south Cambridgeshire Local Plan 2018.)

## **Background Papers**

None

## **Appendices**

Appendix 1: Inspector's Decision

Appendix 2: Fews Lane Consortium Correspondence

## **Report Author:**

Alice Young, Senior Planning Officer

Telephone: 07704 018434

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## Appeal Decision

Site visit made on 25 August 2020

by **Matthew Woodward BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 4<sup>th</sup> February 2021

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**Appeal Ref: APP/W0530/W/20/3253436**

**Land to east of Cody Road and north of Bannold Road, Waterbeach, Cambridgeshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Barry Jordan (Matthew Homes Ltd) against the decision of South Cambridgeshire District Council.
  - The application Ref S/4744/18/FL, dated 4 December 2018, was refused by notice dated 23 March 2020.
  - The development proposed is residential development for 21 dwellings including affordable houses with associated access, landscaping, open space, garages and one self-build/custom build plot.
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### Decision

1. The appeal is allowed and planning permission is granted for residential development for 21 dwellings including affordable houses with associated access, landscaping, open space, garages and one self-build/custom build plot at land to east of Cody Road and north of Bannold Road, Waterbeach, Cambridgeshire in accordance with the terms of the application, Ref S/4744/18/FL, dated 4 December 2018, subject to the conditions in the attached Schedule.

### Procedural Matter

2. The appellant confirms that the description of development was amended by the Council to include all aspects of the proposal. I have used this description, taken from the appeal form, in the banner heading above. I have also taken the site address from the appeal form as no address was given on the application form.

### Application for costs

3. An application for costs was made by Matthew Homes Ltd against South Cambridgeshire District Council. This application is the subject of a separate Decision.

### Main Issue

4. The main issue is whether or not the appeal site is an appropriate location for the proposal, having regard to national and local policy for the delivery of housing, and the character and appearance of the area.

## Reasons

5. Policy S/7 of the South Cambridgeshire Local Plan 2018 (Local Plan) sets out the spatial strategy for the district, and directs housing development towards development frameworks, which are generally the built-up areas of settlements. The countryside is described as all those parts of the plan area that are outside of development frameworks and outside of site-specific allocations. There is no dispute between the main parties that the appeal site lies outside the nearby development framework of Waterbeach, thus for the purposes of planning policy it lies in the countryside.
6. The settlement of Waterbeach has grown organically over time. Despite the position of the appeal site within the countryside, it sits amidst an area of modern housing which is in contrast with the open countryside which lies beyond existing housing generally to the north and east, and the vernacular buildings associated with the village core which are located further to the south. The prevailing character of the area has been substantially altered over recent years mainly due to several large housing developments<sup>1</sup> located immediately to the east and west. I understand that decisions to approve housing on these sites were made partly on the basis of the Council's inadequate housing land supply position at that time. However, it is evident that the character of the area has changed as a consequence of the cumulative impact of those previous decisions, regardless of the basis upon which those decisions were taken.
7. The appeal site itself comprises relatively uneven grass land with sparse vegetation cover, and it was partially fenced off on my site visit with no marked paths or other features which would suggest regular use as recreational open space. Overall, it has no demonstrable qualities. Furthermore, the development would occupy a gap in between a large area of housing that exists close to Bannold Road and just outside the Waterbeach development framework boundary. As a result, the appeal site now has more affinity with the suburban form that surrounds it. Therefore, in principle, housing on this site would be in keeping with the area's prevailing character and would not encroach into rural and open countryside.
8. In respect of the surrounding developments, the recently built housing scheme immediately to the west would form a component part of the appeal scheme. Existing and proposed roads would be connected, and the Public Open Space (POS) would be shared between the developments. Taken together with the existing housing, the proposed layout would consist of perimeter blocks and shared spaces where the distinction between public and private spaces would be clear, creating a coherent identity.
9. Despite the Council's concerns relating to the 'half rendered' dwellings proposed, they would be similar to several prominent examples which are present in the existing scheme, close to the boundary with the appeal site. Furthermore, the fenestration pattern, materials, style and general proportions of the proposed dwellings would reflect existing housing in the area and be of high quality so as to strengthen the local character. The main street would

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<sup>1</sup> Several planning permissions for residential development in the area including, but not limited to, land immediately to west of appeal site (planning application references – S/1907/14/OL and S/2491/16/RM) – 36 dwellings, and land immediately to east of appeal site (planning references S/1359/13/OL and S/2458/16/RM) – 90 dwellings.

- comprise a linear arrangement of modern, well designed dwellings with attractive facades which would overlook a verdant area of POS, resulting in a street scene with aesthetic appeal. This would compensate for less conspicuous areas within the site where the elevational treatment of dwellings would be inferior, including the side elevation proposed at plot No 4.
10. Overall, the proposal would contribute towards the mix of building types and styles in the area, creating an attractive and distinctive place. The layout, form and appearance of the proposal would represent an intelligible and seamless continuation of earlier phases of housing, creating a coherent pattern of development overall.
  11. In respect of the affordable housing units, they would be positioned in a cluster facing the road. Whilst they would not directly face the POS, they would be sufficiently close to it and would also form an integral part of the street scene. I am satisfied that future occupiers of the affordable dwellings would be able to access local services, facilities and recreational space in much the same way as other occupiers within the development. The Council raises no objection regarding the tenure split, and it is notable that no objections were raised by the Council's affordable housing officer. Whilst the parking spaces associated with the affordable housing would be positioned on the opposite side of the street, a combination of fencing associated with an existing property, proposed landscaping, and the relatively discreet position of the parking away from the more open parts of the site, means that they would be unobtrusive in the street.
  12. The Council have also drawn my attention to Policy S/9 of the Local Plan which identifies Waterbeach as a Minor Rural Centre<sup>2</sup>, where development of a maximum of 30 dwellings will normally be permitted. Be that as it may, the site lies outside the Waterbeach development framework boundary, thus this Policy does not apply directly to the appeal site. In any event, the Council's officer report clarifies that the site is in an accessible location where a good range of services and facilities are within close proximity.
  13. In this regard, the layout as proposed would promote walking and cycling. It includes two points of access linking to the adjacent development along with a network of shared surfaces and footpath links. A safe pedestrian through route would link the scheme with the housing on either side, and to Bannold Road to the south. I concur with the appellant that a further pedestrian link in between proposed plot Nos 12 and 13 would not only be unnecessary, but it would be poorly overlooked and potentially unsafe. Therefore, even if I was to accept the Council's assertion that a footpath between those two properties would facilitate a more direct access to the local school for occupiers of all housing nearby, other safe and accessible pedestrian routes would be provided as part of the proposal. Overall, the proposal would provide an integrated network of routes and connections for all non-car modes both to the recent housing developments nearby, and to Bannold Road to the south.
  14. In respect of the proposed POS, this would be split into two distinctive parts. The northern portion would expand the swathe of POS approved as part of the residential scheme immediately to the west, reinforcing the intrinsic links between the two sites. The southern portion would be much smaller, and

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<sup>2</sup> Waterbeach is defined as a 'Minor Rural Service Centre' in the Local Plan, and the Council's officer report highlights that the site is accessible in relation to local service and facilities.

- would include an attenuation pond. The Council do not contest the appellant's assertion that, even if the attenuation basin area of POS was discounted from the total area of POS proposed, the development would still provide an area of POS in excess of planning policy requirements. Therefore, even though the southern area of POS would not be directly overlooked, it is not a significant safety concern given that the larger area to the north would likely be more widely used due to its size.
15. Notwithstanding this, the smaller southern portion of POS would remain largely dry for most of the year, on the basis that it would be designed to attenuate excess surface water during storm events, thus dispelling concerns raised by the Council regarding its value as usable recreation space. The same would apply to the surface water attenuation feature within the wider area of POS approved as part of the earlier phase. Therefore, the provision of drainage features within the areas of POS would result in multi-functional spaces without diminishing their recreational or visual value.
  16. The footprint of the proposed garages would be limited making the storage of cars and bicycles impractical. However, I am satisfied that suitable facilities to store bicycles could be provided in the form of communal stores or individual sheds. Indeed, where plots within the proposed scheme do not have garages, rear garden sheds have been included. Therefore, this aspect could be conditioned.
  17. In conclusion, the proposal would involve a form of housing development in the countryside which is deemed by the Local Plan to be inappropriate, in conflict with Policy S/7 of the Local Plan. However, the countryside should not be protected for its own sake, rather paragraph 170 of the National Planning Policy Framework (the Framework) states that recognition should be given to the intrinsic character and beauty of the countryside. In this regard, mainly as a result of recent developments nearby, the appeal site's rural context has been diminished such that it displays an eminently suburban character. Consequently, the weight I attribute to the conflict with Policy S/7 is limited in this case in light of the minimal contribution the appeal site makes to the open, rural, and verdant characteristics one would normally associate with the countryside.
  18. The proposal would be a design of high quality which would not harm the character and appearance of the area. It would comply with Policy HQ/1 of the Local Plan which, in summary, requires that development encourages ease of movement and is accessible for all, preserves the character of the area and is compatible in terms of its mass, form, siting, proportions, and materials. This Policy also requires that development delivers public spaces that integrate with their surroundings. The development would comply with the South Cambridgeshire District Design Guide Supplementary Planning Document 2010 (SPD) which requires, amongst other things, that the building form, materials and details are informed by the surroundings.
  19. In respect of several of the Council's concerns, reference has been made to the emerging Waterbeach Neighbourhood Plan 2020 to 2031 (NP). However, the emerging NP is a pre-submission document that has not been submitted for examination and is therefore not at an advanced stage. It does not form part of the Development Plan and therefore, the emerging NP carries limited weight in the determination of this appeal.

### *Other Matters*

20. Interested parties have raised a number of concerns, including the impact on the living conditions of the occupiers of neighbouring properties in relation to privacy and overshadowing. I note that the Council did not share these concerns. Proposed dwellings would be sufficiently distanced from existing dwellings on Star Drive to meet the requirements of the SPD in terms of outlook and protecting the privacy of occupants. Whilst one of the proposed dwellings (plot 4) would fall slightly short of the SPD external spacing requirements, it would face the gable end of an existing dwelling and would not unacceptably affect the privacy of existing occupiers.
21. There is no evidence before me to corroborate third party claims that the appeal site is inhabited by a significant amount of wildlife. On the contrary, the submitted Preliminary Ecological Appraisal identifies the site as being of limited ecological value. Whilst some trees and a small section of hedgerow would be removed, a range of mitigation measures are identified in the appraisal, including additional hedgerow planting alongside species rich grassland to be included in the POS. Bird, bat, and hedgehog boxes and a biodiversity management plan are also proposed, and these elements could be conditioned to ensure appropriate mitigation and biodiversity enhancement.
22. The sustainable urban drainage system would ensure that surface water was discharged as high up the drainage hierarchy as practicable<sup>3</sup>. No objections were raised by technical drainage and flood risk consultees in response to the planning application, subject to the imposition of a condition, and I have no reason to question their overall findings. In respect of highways, the Council are satisfied that the car trips generated by the proposal, in combination with other developments nearby, would not lead to critical capacity issues at local junctions. Moreover, no objections are raised on highway safety grounds, and sufficient off-street parking would be provided throughout.
23. None of the trees on site are protected, and the proposal seeks to retain several trees close to the eastern boundary of the site. A number of poor-quality specimens would be removed where the site meets Bannold Road. The Council's tree officer raises no objections, and I am also satisfied that the loss of trees would be adequately mitigated by additional planting to be provided as part of a landscaping scheme to be secured by condition.

### **Planning Obligation and Conditions**

24. A signed bilateral S106 planning obligation has been provided and includes several obligations relating to the provision of 8 affordable housing units on-site, contributions towards an early years classroom at Waterbeach Primary School, adult lifelong learning equipment at Waterbeach library, the village hall, the local recycling facility, and Waterbeach bowls pavilion. A contribution towards off-site children's play space would be provided. The planning obligation would also include the provision and management of POS and sustainable urban drainage within the appeal site. Finally, the obligation includes a single self-build plot<sup>4</sup> to be provided within the site and a mechanism

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<sup>3</sup> Planning Practice Guidance Paragraph: 080 Reference ID: 7-080-20150323

<sup>4</sup> As defined by the Self-build and Custom Housebuilding Act 2015 (as amended)

to ensure that this allocation is prioritised in favour of those on the Council's self-build register.

25. The Council have included robust justification relating to the above requirements such that I am satisfied that the planning obligation would mitigate the impact of the development in relation to the different forms of local infrastructure. Furthermore, the affordable housing mix would satisfy the Council's requirements, and the total number of affordable units and the self-build plot would meet Local Plan requirements. The bilateral nature of the planning obligation is a clear indication that the Council are satisfied with the obligations and consider them necessary to make the development acceptable in planning terms, in order to comply with Local Plan policies. Moreover, no substantive evidence has been provided questioning the necessity or viability of these obligations.
26. The Council have suggested a number of planning conditions which I have considered against the relevant guidance contained within the Planning Practice Guidance (the PPG). I have amended some of them for clarity and in order to meet the PPG, and to avoid repetition.
27. I have applied the standard '3 year' time limit condition, and the 'approved plans' and 'materials' conditions, in the interests of certainty and character and appearance. Conditions relating to water consumption, carbon dioxide emissions, a Travel Plan, and a plan for electric charging points are required by the Local Plan and in order to ensure a sustainable form of development. I have imposed a landscaping condition and incorporated within it a requirement to provide details of boundary treatments. Biodiversity mitigation and enhancement measures are required by condition in accordance with the Local Plan.
28. I have amalgamated several conditions proposed by the Council into a single condition requiring the submission of a Construction Management Plan. This is required prior to the commencement of development as mitigation measures are needed to protect occupiers of nearby properties from noise and other environmental effects before works commence on site. In order to protect the local environment, I have also attached a planning condition relating to land contamination.
29. I have imposed a condition stipulating the need to provide a footway link between the site and Bannold Road before the development is occupied, in order to ensure suitable pedestrian access is provided. A drainage condition is required so that full sustainable drainage details can be agreed with the Council, with an additional condition requiring that run-off is contained so it does not flood the highway. I understand that surface water discharge into a nearby watercourse would require consent from the Internal Drainage Board, thus off-site infrastructure concerns could be addressed as part of this process and no condition is necessary in this regard.
30. As the adoption of the roads is uncertain at this stage, I have imposed a condition requiring details of ongoing management and maintenance of streetlights and roads to be submitted, in the interests of highway safety. A condition is required in order that parking spaces are provided prior to occupation, in the interests of highway safety. Details of lighting are also required in the interests of highway safety and to ensure no unacceptable effects on protected species.

31. The Local Plan stipulates a requirement for suitable broadband infrastructure to be provided and that one of the dwellings is built to appropriate accessible and adaptable standards, and this is reflected in conditions I have imposed.

### **Planning Balance and Conclusion**

32. I am satisfied that there would be a clear contextual and visual synergy between the appeal proposal and the urbanised surroundings such that the development would not encroach into open countryside. The proposal would be a design of high quality which would not harm the character and appearance of the area. Moreover, the housing scheme would be in an accessible location, close to services and facilities. Consequently, I afford conflict with Policy S/7 limited weight as the character and beauty of the countryside would not be harmed, and the design and appearance of the development would be compliant with Policy HQ/1 of the Local Plan.
33. Therefore, whilst I acknowledge that the proposal would not fully accord with the spatial strategy for the area, even taking into account the Council's robust housing land supply position, the proposal would make a meaningful housing contribution, in line with the Government's objective of significantly boosting the supply of homes<sup>5</sup>. There would be modest social benefits through the provision of affordable housing and a self-build plot, along with economic benefits deriving from the construction and occupation of the development.
34. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan, unless material considerations indicate otherwise. I am satisfied that the foregoing benefits constitute material considerations sufficient to outweigh the limited conflict with Policy S/7 of the Local Plan.
35. Therefore, for the reasons given above, the appeal is allowed.

*Matthew Woodward*

INSPECTOR

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<sup>5</sup> Paragraph 59 of the Framework

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan MATT170419 LP.01 Rev B; Coloured Site Layout MATT170419 SL.01 Rev D; House Type 2B4P.e - Red Brick Elevations HT.2B4P.e Rev B; House Type 2B4P.p - Floor Plans HT.2B4P.p Rev B; House Type 3B5P.e - Red Brick Elevations HT.3B5P.e Rev A; House Type 3B5P.p - Floor Plans HT.3B5P.p Rev A; House Type 766.e - Red Brick Elevations HT.766.e Rev A; House Type 766.p - Floor Plans HT.766.p Rev A; House Type 955.e - Red Brick Elevations HT.955.e Rev A; House Type 955.p - Floor Plans HT.955.p Rev A; House Type 1102.pe - Red Brick Plans & Elevations HT.1102.pe Rev A; House Type 1557.e - Red Brick Elevations HT.1557.e Rev A; House Type 1557.p - Floor Plans HT.1557.p Rev A; Plots 14-15 Red Brick Floor Plans P14-15.p Rev A; Plots 14-15 Red Brick Elevations P14-15.e Rev A Plots 20-21 Floor Plans P20-21.p Rev B; Plots 20-21 Elevations P20-21.e Rev B; Shed 1 - Bed House SHED.01.pe Rev A; Shed 2 - Bed House SHED.02.pe Rev A; Garage Single - Floor Plans & Elevations GAR.01 Rev B; Garage Double - Floor Plans & Elevations GAR.02 Rev B; MAT21456 Preliminary Ecology Assessment Revision C; FRA and Drainage Strategy (August 2018) and FRA and Drainage Addendum (June 2019).
- 3) No development shall take place above slab level until details of all external facing materials 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.
- 4) No development shall take place above slab level until details of a plot to be built in accordance with the accessible and adaptable dwellings M4(2) standard in accordance with *Building Regulations 2010 Access to and Use of Buildings*, has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 5) No development shall take place above slab level until a scheme of hard and soft landscaping has been submitted to, and approved in writing by, the local planning authority. The landscape scheme shall include details of trees to be retained including measures to protect them throughout the construction period; planting plans, specification (including cultivation and other operations associated with plant and grass establishment); schedules of plants which shall include species, planting sizes and proposed numbers/ densities where appropriate; the design, type, position and scale of boundary treatments; hard surfacing materials; and an implementation programme for all hard and soft landscaping works. The approved hard and soft landscaping shall be carried out in accordance with the approved details and implementation programme, with the soft landscaping scheme to be carried out in the first planting and seeding seasons following the first occupation of the development or as specified. Any trees or plants which, within a period of five years after planting, are removed, die or become seriously damaged or defective, shall be replaced in the next planting season with others of species, size and number as originally approved.

- 6) No development above slab level shall commence until a scheme of biodiversity enhancement, which shall include details such as permanent bat roosting feature(s) and or nesting opportunities for birds, has been submitted to and agreed in writing with the Local Planning Authority. The approved details thereafter shall be implemented, retained and maintained for their designed purpose in accordance with the approved scheme. The scheme shall include, but not limited to, the following details:
  - a) Description, design or specification of the type of feature(s) or measure(s) to be undertaken
  - b) Materials and construction to ensure long lifespan of the feature/measure
  - c) A drawing(s) showing the location and where appropriate the elevation of the features or measures to be installed or undertaken.
  - d) When the features or measures will be installed and made available.
- 7) No part of the development shall be occupied until the footway linking the site (near plot 19) to Bannold Road shown on drawing No. MATT170419 SL.01 Rev D has been provided in full and is available for use.
- 8) No part of the development shall be occupied until the car parking spaces shown on drawing No. MATT170419 SL.01 Rev D have been provided in full and are available for use for the plot numbers specified. The car parking areas shall thereafter be kept available for the parking of cars at all times.
- 9) No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The Statement shall provide for:
  - i) the parking of vehicles of site operatives and visitors;
  - ii) the management of vehicles carrying abnormal loads;
  - iii) loading and unloading of plant and materials;
  - iv) storage of plant and materials used in constructing the development;
  - v) measures to control the emission of dust and dirt during construction;
  - vi) a scheme for recycling/disposing of waste resulting from demolition and construction works;
  - vii) noise and vibration attenuation from construction and a scheme to ensure compliance;
  - viii) delivery, demolition and construction working hours; and,
  - ix) if piling is to take place, details of mitigation measures to protect local residents from noise and vibration.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 10) No part of the development shall be occupied until details of the lighting of the streets and public spaces 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.

- 11) No part of the development shall be occupied until arrangements for the future maintenance and management of the roads, footways and lighting within the development 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.
- 12) The development shall be constructed to ensure that surface water does not drain onto the public highway from individual plots.
- 13) No part of the development shall be occupied until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include measures to maximise sustainable travel and shall include measurable outputs and provide monitoring and enforcement arrangements. The development shall be carried out in accordance with the approved details.
- 14) No development shall take place above slab level until a surface water drainage scheme for the site, based on sustainable drainage principles, has been submitted to and approved in writing by the local planning authority. The scheme shall be based upon the principles within the approved Flood Risk Assessment and Drainage Strategy Addendum and shall also include:
  - a) Full results of the proposed drainage system modelling in the above referenced storm events (as well as 1% AEP plus climate change), inclusive of all collection, conveyance, storage, flow control and disposal elements and including an allowance for urban creep, together with an assessment of system performance.
  - b) Detailed drawings of the entire proposed surface water drainage system, including levels, gradients, dimensions and pipe reference numbers.
  - c) Full details of the proposed attenuation and flow control measures.
  - d) Details of overland flood flow routes in the event of system exceedance, with demonstration that such flows can be appropriately managed on site without increasing flood risk to occupants.
  - e) Full details of the maintenance/adoption of the surface water drainage system; and,
  - f) A timetable for implementation.The development shall be carried out in accordance with the approved details and timetable.
- 15) No development shall take place above slab level until a scheme to ensure that dwellings achieve a water efficiency standard of 110 litres or less per person per day (unless otherwise agreed in writing with the local planning authority through a demonstration that this requirement for sustainable water use cannot be achieved on technical or viability grounds) shall be submitted to, and approved in writing by, the local planning authority. The development hereby permitted shall be carried out in accordance with the approved details.
- 16) No development shall take place above slab level until an Energy Delivery Strategy has been submitted to and approved in writing by the Local Planning Authority. The Strategy shall show how the dwellings will reduce

- carbon emissions by at least 10% over and above the baseline for the anticipated carbon emissions for each dwelling.
- 17) No part of the development shall be occupied until a Broadband Strategy has been submitted to and approved in writing by the Local Planning Authority. The Strategy shall include measures to ensure that dwellings are able to receive high speed broadband services. The development shall be carried out in accordance with the approved details.
  - 18) No part of the development shall be occupied until details of the cycle storage facilities for each of the dwellings hereby approved 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 and each cycle storage facility shall be constructed in full prior to the occupation of each corresponding dwelling.
  - 19) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
  - 20) No part of the development shall be occupied until an Electric Charging Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan shall include details of the infrastructure to be provided at individual dwellings. The development shall be carried out in accordance with the approved details and provided prior to the occupation of each corresponding dwelling.

*End of Schedule*

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## 95 Bannold Road, Waterbeach

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[REDACTED]

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[REDACTED]

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**From:** Daniel Fulton <dgf@fewslane.co.uk>  
**Sent:** 01 July 2020 09:55  
**To:** Rory McKenna <Rory.Mckenna@3csharedservices.org>; Richard Pitt <Richard.Pitt@3csharedservices.org>;  
Stephen Reid <Stephen.Reid@3csharedservices.org>  
**Subject:** Pre-action letter: 20/01138/OUT (95 Bannold Road, Waterbeach)

Dear Sirs

Please see the attached pre-action letter concerning planning application 20/01138/OUT (95 Bannold Road, Waterbeach).

Kind regards

Daniel Fulton  
Director

Fews Lane Consortium Ltd  
The Elms  
Fews Lane  
Longstanton  
Cambridge  
CB24 3DP

tel. 01954 789237

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1 July 2020

South Cambridgeshire District Council  
FAO 3C Shared Services Legal Practice  
South Cambridgeshire Hall  
Cambourne Business Park  
Cambourne  
Cambridge CB23 6EA

Dear Sirs

**Judicial Review Pre-action Protocol Letter: 20/01 138/OUT**

- (1) The South Cambridgeshire District Council (the "**Council**") is the prospective defendant in a claim for judicial review. A copy of this letter has been sent to the Council by first class post at the address written above.
- (2) The prospective claimant is the Fews Lane Consortium Ltd (the "**Consortium**"), The Elms, Fews Lane, Longstanton, CB24 3DP. The Consortium is a community action group that represents the interests of local residents in issues of planning and development.
- (3) The claim concerns the Council's consideration of planning application 20/01 138/OUT for outline planning permission with all matters reserved except for access for the demolition of the existing house and the erection of five dwellings at 95 Bannold Road, Waterbeach, Cambridge CB25 9LQ.
- (4) The prospective claimant considers the applicant to be an interested party. A copy of this letter has been sent to the applicant, Mr Sanders, at 10 Reubens Road, Landbeach, Cambridge CB25 9FE.
- (5) Article 7(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (the "**2015 Order**") states that an application for planning permission must "include the particulars specified or referred to in the form".
- (6) The application form states that:

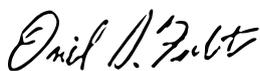
"The application site must be edged clearly with a red line on the location plan. It should include all land necessary to carry out the proposed development (e.g. land required for access to the site from a public highway, visibility splays (access around a road junction or access, which should be free from obstruction), landscaping, car parking and open areas around buildings)."
- (7) The land outlined in red on the location plan for application 20/01 138/OUT fails to include all the land necessary to carry out the proposed development as it does not include all of the land required for visibility splays.
- (8) Furthermore, there is no evidence that the requirements of Article 13 of the 2015 Order, which concerns notification to owners of land to which the application relates, has been satisfied in regards to the land necessary for visibility splays.

(9) Section 327A of the Town and Country Planning Act 1990 states that:

“(1) This section applies to any application in respect of which this Act or any provision made under it imposes a requirement as to—(a) the form or manner in which the application must be made; (b) the form or content of any document or other matter which accompanies the application. (2) The local planning authority must not entertain such an application if it fails to comply with the requirement.”

- (10) Accordingly, it would be unlawful for the Council to proceed with the consideration of this application unless or until the relevant requirements have been fulfilled.
- (11) Should the Council decide to grant outline planning permission on the basis of this application, the Consortium will seek an order quashing the Council's decision, a declaration that the Council erred in law, and an order that the Council pay the Consortium's costs in the claim.
- (12) The Consortium would prefer to resolve this dispute without the need for legal proceedings to be issued and would agree to participate in an appropriate form of ADR.
- (13) The Consortium intends to issue proceedings as an Aarhus Convention claim pursuant to Parts 45.41 – 45.45 of the Civil Procedure Rules because the claim challenges the legality of a decision of a body exercising a public function which is within the scope of Article 9(2) of the UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters agreed at Aarhus, Denmark on 25 June 1998 (the Aarhus Convention).
- (14) The Consortium has not yet arranged funding for this claim. Nevertheless, the Consortium does not envisage that it will be necessary to propose any variation of the standard limits on recoverable costs as stated in Parts 45.43(2)(b) and 45.43(3) of the Civil Procedure Rules.
- (15) Should it become necessary to issue a claim, a statement of the prospective claimant's financial resources and a statement of financial support received will be provided to the prospective defendant at the earliest opportunity once financial support has been arranged and, in any event, will be served with the claim form.
- (16) The Consortium's address for the response and service of documents is: Few's Lane Consortium Ltd, The Elms, Few's Lane, Longstanton, Cambridge CB24 3DP. Please note that the Few's Lane Consortium Ltd does NOT accept service by email.
- (17) The Consortium would like to propose a reply date of 15 July 2020, which is 14 days from the date of this letter.

Kind regards



Daniel Fulton  
Director

[REDACTED]

---

**From:** Stephen Reid

**Sent:** 13 July 2020 14:26

**To:** Daniel Fulton <dgf@fewslane.co.uk>

**Cc:** Sexton Michael <Michael.Sexton@greatercambridgeplanning.org>; Nigel Blazeby <Nigel.Blazeby@greatercambridgeplanning.org>; Carter Chris <Chris.Carter@greatercambridgeplanning.org>; Rory McKenna <Rory.Mckenna@3csharedservices.org>; Richard Pitt <Richard.Pitt@3csharedservices.org>

**Subject:** FW: Pre-action letter: 20/01138/OUT (95 Bannold Road, Waterbeach)

Dear Mr Fulton

I apologise for the delay in responding to the attached letter.

The relevant planning application was on the Agenda for matters to be considered by the Planning Committee at their meeting on 8<sup>th</sup> July but by affirmation of all members it was agreed the application would be withdrawn from the Agenda. Subsequently, I have been advised that the Agent for the applicant has withdrawn the application although notice of such withdrawal of the application does not yet appear on the Council's website but I understand this is expected shortly.

I also understand that a new planning application is to be made with an amended red line location plan.

If you have any queries please let me know.

**Stephen Reid**

Senior Planning Lawyer

3C Shared Services – Legal Practice



Telephone: 0781 7730893

Email: [stephen.reid@3csharedservices.org](mailto:stephen.reid@3csharedservices.org)

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- *We will agree key deadlines/operational requirements with clients within 5 working days.*
- *We will regularly update our clients on progress (weekly unless no movement on a particular matter)*

---

**From:** Daniel Fulton <[dgf@fewslane.co.uk](mailto:dgf@fewslane.co.uk)>

**Sent:** 01 July 2020 09:55

**To:** Rory McKenna <[Rory.Mckenna@3csharedservices.org](mailto:Rory.Mckenna@3csharedservices.org)>; Richard Pitt <[Richard.Pitt@3csharedservices.org](mailto:Richard.Pitt@3csharedservices.org)>;

Stephen Reid <[Stephen.Reid@3csharedservices.org](mailto:Stephen.Reid@3csharedservices.org)>

**Subject:** Pre-action letter: 20/01138/OUT (95 Bannold Road, Waterbeach)

Dear Sirs

Please see the attached pre-action letter concerning planning application 20/01138/OUT (95 Bannold Road, Waterbeach).

Kind regards

Daniel Fulton  
Director

Fews Lane Consortium Ltd  
The Elms  
Fews Lane  
Longstanton  
Cambridge  
CB24 3DP

tel. 01954 789237

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1 July 2020

South Cambridgeshire District Council  
FAO 3C Shared Services Legal Practice  
South Cambridgeshire Hall  
Cambourne Business Park  
Cambourne  
Cambridge CB23 6EA

Dear Sirs

**Judicial Review Pre-action Protocol Letter: 20/01 138/OUT**

- (1) The South Cambridgeshire District Council (the "**Council**") is the prospective defendant in a claim for judicial review. A copy of this letter has been sent to the Council by first class post at the address written above.
- (2) The prospective claimant is the Fews Lane Consortium Ltd (the "**Consortium**"), The Elms, Fews Lane, Longstanton, CB24 3DP. The Consortium is a community action group that represents the interests of local residents in issues of planning and development.
- (3) The claim concerns the Council's consideration of planning application 20/01 138/OUT for outline planning permission with all matters reserved except for access for the demolition of the existing house and the erection of five dwellings at 95 Bannold Road, Waterbeach, Cambridge CB25 9LQ.
- (4) The prospective claimant considers the applicant to be an interested party. A copy of this letter has been sent to the applicant, Mr Sanders, at 10 Reubens Road, Landbeach, Cambridge CB25 9FE.
- (5) Article 7(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (the "**2015 Order**") states that an application for planning permission must "include the particulars specified or referred to in the form".
- (6) The application form states that:

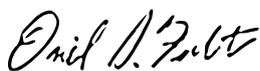
"The application site must be edged clearly with a red line on the location plan. It should include all land necessary to carry out the proposed development (e.g. land required for access to the site from a public highway, visibility splays (access around a road junction or access, which should be free from obstruction), landscaping, car parking and open areas around buildings)."
- (7) The land outlined in red on the location plan for application 20/01 138/OUT fails to include all the land necessary to carry out the proposed development as it does not include all of the land required for visibility splays.
- (8) Furthermore, there is no evidence that the requirements of Article 13 of the 2015 Order, which concerns notification to owners of land to which the application relates, has been satisfied in regards to the land necessary for visibility splays.

(9) Section 327A of the Town and Country Planning Act 1990 states that:

“(1) This section applies to any application in respect of which this Act or any provision made under it imposes a requirement as to—(a) the form or manner in which the application must be made; (b) the form or content of any document or other matter which accompanies the application. (2) The local planning authority must not entertain such an application if it fails to comply with the requirement.”

- (10) Accordingly, it would be unlawful for the Council to proceed with the consideration of this application unless or until the relevant requirements have been fulfilled.
- (11) Should the Council decide to grant outline planning permission on the basis of this application, the Consortium will seek an order quashing the Council's decision, a declaration that the Council erred in law, and an order that the Council pay the Consortium's costs in the claim.
- (12) The Consortium would prefer to resolve this dispute without the need for legal proceedings to be issued and would agree to participate in an appropriate form of ADR.
- (13) The Consortium intends to issue proceedings as an Aarhus Convention claim pursuant to Parts 45.41 – 45.45 of the Civil Procedure Rules because the claim challenges the legality of a decision of a body exercising a public function which is within the scope of Article 9(2) of the UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters agreed at Aarhus, Denmark on 25 June 1998 (the Aarhus Convention).
- (14) The Consortium has not yet arranged funding for this claim. Nevertheless, the Consortium does not envisage that it will be necessary to propose any variation of the standard limits on recoverable costs as stated in Parts 45.43(2)(b) and 45.43(3) of the Civil Procedure Rules.
- (15) Should it become necessary to issue a claim, a statement of the prospective claimant's financial resources and a statement of financial support received will be provided to the prospective defendant at the earliest opportunity once financial support has been arranged and, in any event, will be served with the claim form.
- (16) The Consortium's address for the response and service of documents is: Few's Lane Consortium Ltd, The Elms, Few's Lane, Longstanton, Cambridge CB24 3DP. Please note that the Few's Lane Consortium Ltd does NOT accept service by email.
- (17) The Consortium would like to propose a reply date of 15 July 2020, which is 14 days from the date of this letter.

Kind regards



Daniel Fulton  
Director

[REDACTED]

---

**From:** Stephen Reid

**Sent:** 27 July 2020 14:16

**To:** Daniel Fulton <dgf@fewslane.co.uk>

**Cc:** Sharon Brown <Sharon.Brown@greatercambridgeplanning.org>; Nigel Blazeby <Nigel.Blazeby@greatercambridgeplanning.org>; Smith Jemma <Jemma.Smith@scambs.gov.uk>; Sexton Michael <Michael.Sexton@greatercambridgeplanning.org>

**Subject:** 95 Bannold \ | road waterbeach 20/01138/OI

Dear Mr Fulton,

In the light of your letter of 1<sup>st</sup> July in relation to the site at 95 Bannold Road, Waterbeach and being mindful that when a new application is received you might once again raise the issue of visibility splays ( if the red line location plan does not show these within the red line where they form part of the existing adopted highway) a copy of your letter was sent to Counsel ,Mr Charles Streeten of Francis Taylor Building , to advise .

I was also mindful that you have raised matters as to the nature of visibility splays on at least one other occasion previously and where I was unable to persuade you as to the validity of an application where visibility splays were not included in the relevant red line location plan

A copy of Mr Streeten's advice is attached and we would ask for your early comments if it is was your intention to again issue a letter before action in relation to visibility splays. Preferably we would like to have a substantive response within the next 8 working days unless you say that for some reason that would cause you a difficulty in which case please explain why.

May we also invite you to consider taking your own advice from Counsel instructed at your end as to the attached so that if there are any contrary views we can put these to Mr Streeten at the earliest opportunity.

In the event that you do not provide substantive comments as to the attached but you issue a Pre-Action protocol letter as to any new application in relation to 95 Bannold Road, Waterbeach, we reserve the right to refer to the attached advice .

**Stephen Reid**

Senior Planning Lawyer

3C Shared Services – Legal Practice



Telephone: 0781 7730893

Email: [stephen.reid@3csharedservices.org](mailto:stephen.reid@3csharedservices.org)

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- We will regularly update our clients on progress (weekly unless no movement on a particular matter)

---

**From:** Stephen Reid

**Sent:** 20 July 2020 14:12

**To:** Nigel Blazeby <[Nigel.Blazeby@greatercambridgeplanning.org](mailto:Nigel.Blazeby@greatercambridgeplanning.org)>

**Cc:** Sharon Brown <[Sharon.Brown@greatercambridgeplanning.org](mailto:Sharon.Brown@greatercambridgeplanning.org)>; Carter Chris

<[Chris.Carter@greatercambridgeplanning.org](mailto:Chris.Carter@greatercambridgeplanning.org)>; Sexton Michael <[Michael.Sexton@greatercambridgeplanning.org](mailto:Michael.Sexton@greatercambridgeplanning.org)>;

Smith Jemma <[Jemma.Smith@scambs.gov.uk](mailto:Jemma.Smith@scambs.gov.uk)>

**Subject:** SOUTH CAMBS ADVICEJuly20th

Dear Nigel,

If you or colleagues have any comments please let me know.

**Stephen Reid**

Senior Planning Lawyer

3C Shared Services – Legal Practice



Telephone: 0781 7730893

Email: [stephen.reid@3csharedservices.org](mailto:stephen.reid@3csharedservices.org)

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**SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL**

**APPLICATION REFERENCE 20/01138/OUT  
95 BANNOLD ROAD, WATERBEACH, CAMBRIDGE, CB25 9LQ**

**APPLICATION OF ARTICLE 7 OF THE TOWN AND COUNTRY PLANNING (DEVELOPMENT  
MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015**

---

**ADVICE**

---

**Introduction**

1. I am asked to advise South Cambridgeshire District Council (“the **Council**”) regarding what purports to be a letter sent pursuant to the pre-action protocol for judicial review sent by ‘Fews Lane Consortium Limited (“the **Consortium**”) on 1 July 2020. The Consortium proposes to challenge a decision, if taken, to grant planning permission for development under application reference 20/01138/OUT (“the **Application**”) described as “outline planning permission with all matters reserved except for access for the demolition of the existing house and the erection of five dwellings” (“the **Development**”) at 95 Bannold Road, Waterbeach, Cambridge, CB25 9LQ (“the **Site**”).
2. The basis of the Consortium’s proposed claim is an allegation that any decision to grant planning permission for the Development would not accord with the requirements imposed by the Town and Country Planning (Development Management Procedure) (England) Order 2015 (“the **2015 Order**”) and thus would also be in breach of section 327A of the Town and Country Planning Act 1990 (“the **1990 Act**”). Specifically, it is alleged that the land outlined in red on the location plan for the Application does not include all of the land necessary to carry out the proposed development as it does not include all of the land required for visibility splays.

**Summary of Advice**

3. For the reasons set out further below I am of the opinion that:

- a. The Council granting planning permission for development which relies on adopted highway land outside the red line site boundary as part of the visibility splays is not, in my view, in breach of the requirements of the 2015 Order.
- b. At present, it would appear that there is land falling outside the red line Site boundary which will be developed. The red line should therefore be amended to include this land. However, it is not necessary to include in that amended boundary all of the land required as visibility splay. Provided the land on which operational development will take place is within the red line boundary, and the remaining land is adopted highway, I am of the view that the requirements of the 2015 Order will be complied with.
- c. Even if I am wrong in relation to the above, the prospect of a claim for judicial review succeeding is low.

## **Law**

### The Statutory Scheme

4. The 2015 Order is made, inter alia, pursuant to section 59 of the 1990 Act. It dictates the procedure by which planning applications must be determined.
5. Section 327A of the 1990 Act states:

“(1) This section applies to any application in respect of which this Act or any provision made under it imposes a requirement as to—(a) the form or manner in which the application must be made; (b) the form or content of any document or other matter which accompanies the application.(2)The local planning authority must not entertain such an application if it fails to comply with the requirement.”
6. Thus a local planning authority should not entertain an application for planning permission unless it complies with the requirements of the 2015 Order.

### Non-Compliance with the DMOP

7. It should, however, be noted that notwithstanding the apparently strict wording of section 327A, the High Court has made clear that a breach of the requirements in the 2015 Order does not, necessarily, mean that a grant of planning permission will be quashed (see *R (Bishop) v Westminster CC* [2017] EWHC 3102 (Admin) at para. 23). Rather, the court retains its discretion regarding whether or not to quash a planning permission granted in breach of the 2015 Order. Indeed, in a case where it is 'highly likely' that the outcome would not have been substantially different absent the error, the court is under a duty pursuant to section 31 of the Senior Courts Act 1981 (as amended) to refuse both permission for judicial review and relief.
8. Thus, whilst local planning authorities should always seek to ensure that the requirements of the 2015 Order are properly followed, it may be that an inadvertent failure to follow the procedural requirements set down is not fatal to a grant of planning permission.

Article 7 of the 2015 Order

9. Article 7 of the 2015 Order is entitled "General requirements: applications for planning permission including outline planning permission". Article 7(1)(b) requires that an application for planning permission must "include the particulars specified or referred to in the form". It should also be noted that Article 7(1)(c) requires the application be accompanied *inter alia* by (i) a plan which identifies the land to which the application relates; (ii) any other plans, drawings and information necessary to describe the development which is the subject of the application.
10. The section of the application form to which the Consortium refers reads:

"The application site must be edged clearly with a red line on the location plan. It should include all land necessary to carry out the proposed development (e.g. land required for access to the site from a public highway, visibility splays (access around a road junction or access, which should be free from obstruction), landscaping, car parking and open areas around buildings)."
11. This is also reflected in the Government's Planning Practice Guidance ("**PPG**") which says at reference ID 14-024-20140306:

"The application site should be edged clearly with a red line on the location plan. It should include all land necessary to carry out the proposed development (eg land required for access to the site from a public highway, visibility splays, landscaping,

car parking and open areas around buildings). A blue line should be drawn around any other land owned by the applicant, close to or adjoining the application site.”

12. In interpreting these words it is important not to lose sight of their context. They have not been drafted as would a policy, still less with the care given to the drafting of legislation. In both cases are intended as practical guidance to those completing an application for planning permission. They should therefore be read with a considerable degree of common sense and not subjected to exegetical legal analysis. If authority is required for this proposition, it is to be found in *R (Solo Retail Limited) v Torridge DC* [2019] EWHC 489 (Admin) at para. 33.

### **Analysis**

13. The particular issue upon which I am asked to advise relates to the location of the visibility splays required by the Highway Authority to ensure the access to the Development is safe. Essentially, the visibility splays required for the proposed access extend beyond the red line boundary. I am instructed, however, that all the land outside the red line boundary covered by those visibility splays is within the existing adopted highway.
14. The issue, therefore, is whether planning permission for the Development can be granted, notwithstanding that an area included within the visibility splay is on adopted highway outside the red line boundary. My view is that it can:
- a. Firstly, the text of both the application form and the guidance refers to “all land necessary to carry out the proposed development”. In my view, the word development is of central importance. If land is not being developed, it does not need to be included within the red line boundary. Thus, although land that is not adopted highway such that its use needs to be changed to be used as a visibility splay, it may need to be shown within the red line boundary, where the land used for the visibility splay is already adopted highway, and no operational development is required, it does not need to be included within the red line.
  - b. Secondly, an over literal reading of the application form and PPG would create absurd results. As those instructing rightly point out, both refer to car parking and open areas around buildings. However, if the development proposed does not include any car parking it plainly would not be invalid if the red line on the location plan did not show land for car parking. Similarly, if the application was such that

the footprint of a proposed building meant there were to be no open areas around it, the effect of the application form is clearly not intended to be that the application is invalid because it fails to show any open areas. On the contrary, as both the form and the PPG make clear, the references given are mere examples, and are not intended to be prescriptive or exhaustive. Ultimately, what land is necessary to carry out the proposed development will be a matter of judgement for the local planning authority to determine on the facts of any given case.

15. I should add, as a caveat to the above (and leaving aside the questions which arise where works are carried out pursuant to an agreement under section 278 of the Highways Act 1980), that if operational development such as engineering works are required to provide or alter an access, this may amount to development and should, therefore, be included within the red line boundary.

16. Applying these principles, in my opinion:

- a. Provided that all of the relevant land upon which works to create the access for the Development fall within the red line boundary, the Council would be entitled to conclude that the land necessary to carry out the proposed development does not include land falling within the visibility splays but outwith the red line boundary, which is adopted highway.
- b. Looking at the plans, it would appear that there is land outside the red line boundary which will need to be developed to provide the access to the proposed development. The red line boundary should be amended to include this land.
- c. Provided that the red line boundary is amended to include the land upon which operational development is required to provide the access, it is not necessary to include within the red line boundary other land which is adopted highway and forms part of the relevant visibility splay.

17. I do not, therefore, agree with the Consortium's reasons for asserting that it would be a breach of the 2015 Order or unlawful to grant planning permission for the Development. However, in my view the red line boundary will need to be amended to include land on which operational development is proposed.

18. Moreover, even if I am wrong about that, I am of the view that the prospects of bringing a successful claim for judicial review would be low. I cannot see what prejudice could be said to result from not including adopted highway land forming part of the visibility splay within the red line boundary for the development and, in any event, a claim for judicial review would be likely to be refused permission and/or relief pursuant to section 31 of the Senior Courts Act 1981 on the basis that it is highly likely the outcome would not have been substantially different absent any error of law identified.

**Conclusion**

3. My conclusions are set out further in the summary of advice above. If I can be of any further assistance, those instructing should not hesitate to contact me.

**Charles Streeten**  
**Francis Taylor Building**

20 July 2020



---

**From:** Daniel Fulton <dgf@fewslane.co.uk>  
**Sent:** 27 July 2020 14:24  
**To:** Stephen Reid <Stephen.Reid@3csharedservices.org>  
**Cc:** Sharon Brown <Sharon.Brown@greatercambridgeplanning.org>; Nigel Blazeby <Nigel.Blazeby@greatercambridgeplanning.org>; Smith Jemma <Jemma.Smith@scams.gov.uk>; Sexton Michael <Michael.Sexton@greatercambridgeplanning.org>  
**Subject:** Re: 95 Bannold \ | road waterbeach 20/01138/OI

Dear Mr Reid,

Thank you for your email. We will have comments to make in response to Mr Streeten's advice and will have those comments to you within the next 8 working days.

Kind regards,

Daniel Fulton  
Director

Fews Lane Consortium Ltd  
The Elms  
Fews Lane  
Longstanton  
Cambridge  
CB24 3DP

tel. 01954 789237

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On 27 Jul 2020, at 2:16pm, Stephen Reid <[Stephen.Reid@3csharedservices.org](mailto:Stephen.Reid@3csharedservices.org)> wrote:

Dear Mr Fulton,

In the light of your letter of 1<sup>st</sup> July in relation to the site at 95 Bannold Road, Waterbeach and being mindful that when a new application is received you might once again raise the issue of visibility splays ( if the red line location plan does not show these within the red line where they form part of the existing adopted highway) a copy of your letter was

sent to Counsel ,Mr Charles Streeten of Francis Taylor Building , to advise .

I was also mindful that you have raised matters as to the nature of visibility splays on at least one other occasion previously and where I was unable to persuade you as to the validity of an application where visibility splays were not included in the relevant red line location plan

A copy of Mr Streeten's advice is attached and we would ask for your early comments if it is was your intention to again issue a letter before action in relation to visibility splays. Preferably we would like to have a substantive response within the next 8 working days unless you say that for some reason that would cause you a difficulty in which case please explain why.

May we also invite you to consider taking your own advice from Counsel instructed at your end as to the attached so that if there are any contrary views we can put these to Mr Streeten at the earliest opportunity.

In the event that you do not provide substantive comments as to the attached but you issue a Pre-Action protocol letter as to any new application in relation to 95 Bannold Road, Waterbeach, we reserve the right to refer to the attached advice .

**Stephen Reid**  
Senior Planning Lawyer  
3C Shared Services – Legal Practice  
<image001.png>  
Telephone: 0781 7730893  
Email: [stephen.reid@3csharedservices.org](mailto:stephen.reid@3csharedservices.org)

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---

**From:** Stephen Reid  
**Sent:** 20 July 2020 14:12  
**To:** Nigel Blazeby <[Nigel.Blazeby@greatercambridgeplanning.org](mailto:Nigel.Blazeby@greatercambridgeplanning.org)>  
**Cc:** Sharon Brown <[Sharon.Brown@greatercambridgeplanning.org](mailto:Sharon.Brown@greatercambridgeplanning.org)>; Carter Chris <[Chris.Carter@greatercambridgeplanning.org](mailto:Chris.Carter@greatercambridgeplanning.org)>; Sexton Michael <[Michael.Sexton@greatercambridgeplanning.org](mailto:Michael.Sexton@greatercambridgeplanning.org)>; Smith Jemma <[Jemma.Smith@scamb.gov.uk](mailto:Jemma.Smith@scamb.gov.uk)>  
**Subject:** SOUTH CAMBS ADVICEJuly20th

Dear Nigel,

If you or colleagues have any comments please let me know.

**Stephen Reid**

Senior Planning Lawyer

3C Shared Services – Legal Practice

<image001.png>

Telephone: 0781 7730893

Email: [stephen.reid@3csharedservices.org](mailto:stephen.reid@3csharedservices.org)

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<SOUTH CAMBS ADVICEJuly20th.docx>

[REDACTED]

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[REDACTED]

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**From:** Daniel Fulton <dgf@fewslane.co.uk>  
**Sent:** 31 July 2020 16:45  
**To:** Stephen Reid <Stephen.Reid@3csharedservices.org>  
**Subject:** Re: Judicial Review Pre-action Protocol Letter

Dear Mr Reid,

The attached letter was emailed to you at <[Stephen.Reid@3csharedservices.org](mailto:Stephen.Reid@3csharedservices.org)> at 1:57pm on 27 July 2020 under the subject "Pre-action protocol letter: 20/02453/S73 - The Retreat, Fews Lane". A copy was also sent to the Council by first class post.

I anticipate responding to the Council's legal advice received about visibility splays at 95 Bannold Road in Waterbeach early next week, no later than Wednesday, 5 August. As the pre-action protocol letter concerning The Retreat, Fews Lane, concerns the same legal issues that are dealt with in Mr Streeten's advice, I would propose that the Council's response date for the Fews Lane pre-action letter be deferred until two weeks after next Wednesday, which would be 19 August.

I trust 19 August will be acceptable as it is five days after your proposed reply date of 14 August.

Kind regards,

Daniel Fulton  
Director

Fews Lane Consortium Ltd  
The Elms  
Fews Lane  
Longstanton  
Cambridge  
CB24 3DP

tel. 01954 789237

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On 31 Jul 2020, at 4:24pm, Stephen Reid <[Stephen.Reid@3csharedservices.org](mailto:Stephen.Reid@3csharedservices.org)> wrote:

Dear Mr Fulton

Although you emailed a copy of the attached letter to Mr McAdam at LGSS Law on Monday can you confirm if you emailed the attached letter to anyone at 3c Legal or whether it was simply put in the post.

I raise this at least in part in the context of a request for an extension until close of play on 14<sup>th</sup> august to respond to the attached letter.

**Stephen Reid**

Senior Planning Lawyer

3C Shared Services – Legal Practice

<image001.png>

Telephone: 0781 7730893

Email: [stephen.reid@3csharedservices.org](mailto:stephen.reid@3csharedservices.org)

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**From:** Daniel Fulton <[dgf@fewslane.co.uk](mailto:dgf@fewslane.co.uk)>

**Sent:** 27 July 2020 14:35

**To:** McAdam Richard <[Richard.McAdam@LGSSLaw.co.uk](mailto:Richard.McAdam@LGSSLaw.co.uk)>

**Subject:** Re: Judicial Review Pre-action Protocol Letter

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Dear Mr McAdam,

As detailed in the attached letter, we have written to South Cambridgeshire District Council today challenging the legality of the district council's decision to validate the purported planning application in question. We expect that the district council will notify the applicant that the application is invalid and can not be considered. This would render our pre-action letter to the county council entirely academic.

I would therefore like to withdraw the Consortium's pre-action letter dated 10 July 2020.

In the unlikely event that the district council decides to continue its unlawful consideration of the planning application in question, we will send a fresh pre-action letter to the county council once that decision has been taken.

Kind regards,

Daniel Fulton  
Director

Fews Lane Consortium Ltd  
The Elms  
Fews Lane

Longstanton  
Cambridge  
CB24 3DP

tel. 01954 789237

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<few's lane pre-action validation signed.pdf>

[REDACTED]

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[REDACTED]

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**From:** Daniel Fulton <dgf@fewslane.co.uk>  
**Sent:** 04 August 2020 10:11  
**To:** Stephen Reid <Stephen.Reid@3csharedservices.org>  
**Subject:** Response to legal advice concerning visibility splays at 95 Bannold Road, Waterbeach

Dear Mr Reid,

Please see the attached response to the legal advice received by the Council concerning visibility splays at 95 Bannold Road, Waterbeach.

Kind regards,

Daniel Fulton  
Director

Fews Lane Consortium Ltd  
The Elms  
Fews Lane  
Longstanton  
Cambridge  
CB24 3DP

tel. 01954 789237

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4 August 2020

Mr Stephen Reid  
3C Shared Services Legal Practice  
c/o South Cambridgeshire District Council  
South Cambridgeshire Hall  
Cambourne Business Park  
Cambourne  
Cambridge CB23 6EA

VIA EMAIL ONLY

Dear Mr Reid

**Response to legal advice concerning visibility splays at 95 Bannold Road, Waterbeach**

- (1) The Consortium agrees with Mr Streeten's advice that the instructions in the application form must be applied in a common sense manner to the development proposed by any particular application. For example, if a development in a city centre envisages pedestrian access only, it would be absurd to require visibility splays for a nonexistent vehicular access.
- (2) The Consortium concurs that any land on, in, over, or under which operational development is required for a visibility splay must be included within the red line boundaries of the application site.
- (3) We also concur that any land requiring a material change of use must be included within the red line boundaries of the application site.
- (4) We do not necessarily concur that land that is within the adopted public highway on which no operational development is required and which requires no material change of use may be excluded from within the red line boundaries of the application site. For example, where trees interfering with a visibility splay are located within the boundaries of the adopted public highway, we would argue that it would be appropriate to include that land in the red line boundaries of the application site. Although the felling of trees is not operational development, the use of the land upon which the trees are growing is clearly material to the decision and therefore forms part of the land to which the application relates.
- (5) It is acknowledged that the usual practice of the local highway authority is to request that any visibility splays be located within the red line boundaries of the application site or within the boundaries of the adopted public highway. However, we are unsure of what the local highway authority's rationale is for this practice.
- (6) If the local highway authority wishes to agree to maintain a visibility splay within the boundaries of the adopted public highway, it is free to enter into a legal agreement to do so, but it is by no means obliged to facilitate private development of other land by agreeing to maintain a visibility splay on public land at public expense in every case.

- (7) In regards to the site at 95 Bannold Road specifically, Mr Streeten's advice appears to be predicated upon the supposition that the land between the current southernmost red line boundary of the application site and the northernmost edge of the carriageway of Bannold Road is entirely within the adopted public highway. Whilst this may well be the case, we are unable to rely on this supposition without having seen any evidence to support it.
- (8) We will note that we agree with the Council's trees officer's assessment that the existing hedgerow along the application site's frontage on Bannold Road makes an important contribution to the street scene and should be retained in any approved development. Although no operational development or change of use appears to be required for the land on which the hedge is situated, we feel that following a common sense approach would warrant including this land within the red line boundaries of the application site.
- (9) It is difficult to see how anyone's interests could be prejudiced by the Council insisting that the entire 43 metre x 2.4 metre visibility splays are included within the red line boundaries of the application site, the appropriate notices being served upon the owners of land within the application site, and the appropriate ownership certificate being filed by the applicant.
- (10) I would also note that section 327A of the Town and Country Planning Act 1990 prohibits local authorities from even entertaining applications that fail to comply with the requirements as to the form or manner in which an application must be made. As such, I would submit that the local planning authority's validation decision itself is subject to judicial review, not merely the final decision on the application. As the planning history for The Retreat, Fews Lane, Longstanton, illustrates, entertaining invalid planning applications can be an extraordinarily wasteful use of public resources.
- (11) Lastly, there have been numerous instances of planning applications in South Cambridgeshire over the past two years where the local highway authority has based its advice on highway safety conditions at least in part on the position of the red line boundaries of the application site. Accordingly, if the local highway authority is to continue taking the red line boundaries of the application site into consideration in deciding what planning conditions are reasonable or necessary in planning terms, then it is necessary that the requirements governing the positioning of the red line boundaries are applied in a manner that is both consistent and logically coherent.
- (12) If the local highway authority is to take into account the position of the red line boundaries of the application site in determining which planning conditions are reasonable and/or necessary, an arbitrary decision on the positioning of the red line boundaries would render the local highways authority's advice arbitrary as well, and I would submit that a statutory consultee offering advice on an arbitrary basis could potentially be unlawful.
- (13) I hope this response will prove useful in elucidating the Consortium's reasons for issuing a pre-action letter in regards to the planning application in question.

Kind regards,



Daniel Fulton  
Director

[REDACTED]

[REDACTED]

[REDACTED]

---

**From:** Daniel Fulton <dgf@fewslane.co.uk>  
**Sent:** 03 September 2020 09:01  
**To:** Stephen Reid <Stephen.Reid@3cshareservices.org>  
**Subject:** ss. 65 & 327A TCPA 1990

Dear Mr Reid,

Please see the attached letter concerning the Council's interpretation and application of sections 65 and 327A of the Town and Country Planning Act 1990.

Kind regards,

Daniel Fulton  
Director

Fews Lane Consortium Ltd  
The Elms  
Fews Lane  
Longstanton  
Cambridge  
CB24 3DP

tel. 01954 789237

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3 September 2020

South Cambridgeshire District Council  
FAO 3C Shared Services Legal Practice  
South Cambridgeshire Hall  
Cambourne Business Park  
Cambourne  
Cambridge CB23 6EA

Dear Sirs

- (1) Under Part 1 of the Civil Procedure Rules, parties are required to help the court see that disputes are resolved in a manner that saves expense, that ensures claims are dealt with expeditiously and fairly, and that takes into account the need of the court to allot resources to other cases.
- (2) Accordingly, it would be extraordinarily helpful if the South Cambridgeshire District Council could please clarify the following issues.
- (3) Is it the Council's position that the provisions of sections 65 and 327A of the Town and Country Planning Act 1990 (the "**1990 Act**") do not apply when land to which a planning application relates is owned by a public authority?
- (4) If this is the Council's position, is the Council aware of any authorities that support this position?
- (5) If this is not the Council's position, could the Council please explain how it reconciles sections 65 and 327A of the 1990 Act with its recent decision in regards to planning application S/4191/19/FL, which concerns parcel COM4, Neal Drive, Orchard Park, Cambridge, its recent pre-action correspondence in regards to planning application 20/02453/S73, which concerns The Retreat, Fews Lane, Longstanton, and the legal advice recently shared with the Consortium in regards to the proposed development at 95 Bannold Road, Waterbeach?
- (6) I very much appreciate the Council's assistance in clarifying these matters.

Kind regards



Daniel Fulton  
Director

[REDACTED]

---

**From:** Stephen Reid

**Sent:** 04 September 2020 17:33

**To:** Daniel Fulton <dgf@fewslane.co.uk>

**Cc:** Fiona Bradley <Fiona.Bradley@greatercambridgeplanning.org>; Simpson Luke <Luke.Simpson@greatercambridgeplanning.org>

**Subject:** Orchard Park response 4th september 2020

**Importance:** High

Please see attached.

I will arrange for it to be put on letterhead and posted to you next week.

**Stephen Reid**

Senior Planning Lawyer

3C Shared Services – Legal Practice



Telephone: 0781 7730893

Email: [stephen.reid@3csharedservices.org](mailto:stephen.reid@3csharedservices.org)

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Practice Ref: SR

FAO Daniel Fulton, Director  
Fews Lane Consortium Ltd  
The Elms  
Fews Lane  
Longstanton  
Cambridge  
CB24 3DP

Date: 4<sup>th</sup> September 2020

Dear Sir

**Planning Permission under S/4191/19/FL**

We write in relation to your letter dated 3<sup>rd</sup> September 2020 and comment as set out below by reference to the numbered paragraphs within your letter which require a response from the District Council:

(3) It is not the District Council's position that the provisions of sections 65 and 327A of the Town and Country Planning Act 1990 ("the 1990 Act") do not apply when land to which a planning application relates is owned by a public authority

(4) Not applicable

(5) The District Council sees no conflict and/or inconsistency for the purposes of sections 65 and 327A of the 1990 Act with regards to the following:

- (a) the decision in relation to S/4191/19/FL
- (b) the recent pre -action correspondence in relation to 20/02453/S73
- (c ) the proposed development at 95 Bannold Road, Waterbeach

The recent pre action correspondence from you in relation to 20/02453/S73 and the proposed development at 95 Bannold Road ,Waterbeach both relate primarily to

whether the “red line” location plans in each case included all land necessary to delivery of the relevant visibility splays .

In the case of S/4191/19/FL the District Council is satisfied that all land required for relevant visibility splays is either within the red line of the application site or is within land which is already adopted public highway . Moreover, the Council is satisfied that the (revised) red line location plan accompanying application S/4191/19/FL is entirely in order and in particular no conflict has arisen with the statutory provisions to which you refer . To the extent that your concerns relate to land owned by the Orchard Park Community Council, the District Council is satisfied that no such land lies within the red line as shown on the location plan accompanying application S/4191/19/FL and, as such, there was no requirement for formal notification pursuant to be given to the Community Council pursuant to article 13 of the Town and Country Planning (Development Management Procedure) Order 2015. The Council is also satisfied that it was not necessary for any land held by the Community Council to have been included within the red line on that location plan .

Yours faithfully

A handwritten signature in black ink, appearing to read 'Stephen Reid', with a horizontal line underneath.

**Stephen Reid**  
Senior Planning Lawyer  
**acting for South Cambridgeshire District Council**

Tel: 0781 7730893  
Email: [Stephen.reid@3csharedservices.org](mailto:Stephen.reid@3csharedservices.org)

[REDACTED]

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[REDACTED]

---

**From:** Daniel Fulton <dgf@fewslane.co.uk>  
**Sent:** 08 September 2020 08:35  
**To:** Stephen Reid <Stephen.Reid@3csharedservices.org>  
**Subject:** Response to email from 4 September

Dear Mr Reid,

Please see the attached letter in response to your email from 4 September.

Kind regards,

Daniel Fulton  
Director

Fews Lane Consortium Ltd  
The Elms  
Fews Lane  
Longstanton  
Cambridge  
CB24 3DP

tel. 01954 789237

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8 September 2020

South Cambridgeshire District Council  
FAO 3C Shared Services Legal Practice  
South Cambridgeshire Hall  
Cambourne Business Park  
Cambourne  
Cambridge CB23 6EA

Dear Sirs

- (1) Thank you for your letter dated 4 September 2020 clarifying the Council's position on a number of key issues.
- (2) In light of these clarifications, the Consortium would like to call the Council's attention to the following relevant provisions of law.

#### Legal Framework

- (3) Section 55(1) of the Town and Country Planning Act 1990 (the "**1990 Act**") provides that:

"Subject to the following provisions of this section, in this Act, except where the context otherwise requires, 'development,' means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land."

- (4) Section 336(1) of the 1990 Act provides that:

"'engineering operations' includes the formation or laying out of means of access to highways".

- (5) Section 55(2) of the 1990 Act provides that (emphasis added):

"The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land — [...]  
(b) the carrying out on land **within the boundaries of a road by a highway authority** of any works required for the maintenance or improvement of the road but, in the case of any such works which are not exclusively for the maintenance of the road, not including any works which may have significant adverse effects on the environment"

- (6) Section 65 of the 1990 Act provides that:

"(1) A development order may make provision requiring—  
(a) notice to be given of any application for planning permission or permission in principle, and

(b) any applicant for such permission to issue a certificate as to the interests in the land to which the application relates or the purpose for which it is used, and provide for publicising such applications and for the form, content and service of such notices and certificates.

(2) Provision shall be made by a development order for the purpose of securing that, in the case of any application for planning permission, any person (other than the applicant) who on such date as may be prescribed by the order is an owner of the land to which the application relates, or an agricultural tenant of that land, is given notice of the application in such manner as may be required by the order.

(3) A development order may require an applicant for planning permission or permission in principle to certify, in such form as may be prescribed by the order, or to provide evidence, that any requirements of the order have been satisfied.

(3A) In subsections (1) and (3) references to any application for planning permission or any applicant for such permission include references to any application for approval under section 61L(2) or any applicant for such approval.

(4) A development order making any provision by virtue of this section may make different provision for different cases or different classes of development.

(5) A local planning authority shall not entertain an application for planning permission or permission in principle unless any requirements imposed by virtue of this section have been satisfied."

(7) Section 327A of the 1990 Act provides that:

"(1) This section applies to any application in respect of which this Act or any provision made under it imposes a requirement as to—

- (a) the form or manner in which the application must be made;
- (b) the form or content of any document or other matter which accompanies the application.

(2) The local planning authority must not entertain such an application if it fails to comply with the requirement."

(8) Article 7 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (the "**2015 Order**") provides that (emphasis added):

"(1) Subject to paragraphs (3) to (5), **an application for planning permission must—**

(a) be made in writing to the local planning authority on a form published by the Secretary of State (or a form to substantially the same effect);

(b) **include the particulars specified or referred to in the form;**

(c) except where the application is made pursuant to section 73 (determination of applications to develop land without conditions previously attached) or section 73A(2)(c) (planning permission for development already carried out) of the 1990 Act or is an application of a kind referred to in article 20(1)(b) or (c), be accompanied, whether electronically or otherwise, by—

(i) **a plan which identifies the land to which the application relates;**

(ii) any other plans, drawings and information necessary to describe the development which is the subject of the application".

(9) Article 13(1) of the 2015 Order provides that (emphasis added):

"Except where paragraph (2) applies, an applicant for planning permission **must give requisite notice** of the application to any person (other than the applicant) who on the prescribed date is an owner of **the land to which the application relates**, or a tenant—

(a) by serving the notice on every such person whose name and address is known to the applicant; and

(b) where the applicant has taken reasonable steps to ascertain the names and addresses of every such person, but has been unable to do so, by publication of the notice after the prescribed date in a newspaper circulating in the locality in which the land to which the application relates is situated."

(10) Article 14 of the 2015 Order provides that:

“(1) Where an application for planning permission is made, the applicant must certify, in a form published by the Secretary of State or in a form substantially to the same effect, that the relevant requirements of article 13 have been satisfied.”

(11) Delegated legislation made under an act is capable of being a persuasive authority on the meaning of the act's provisions. (*Hales v Bolton Leathers Ltd* [1951] A.C. 531, per Lord Simonds at 539, per Lord Normand at 544, and per Lord Oaksey at 548)

(12) When the government department administering an act publishes official statements in regards to the act, those statements may be taken into account as a persuasive authority on the meanings of the act's provisions. (*Oram (Inspector of Taxes) v Johnson* [1980] 2 All E.R. 1 at 6)

(13) The meaning of a provision of an act may be elucidated by reference to contemporary statements indicating how the provisions were understood at the time they were enacted, particularly in esoteric areas of law where cases rarely come before the courts and there is a long established practice. (*Isle of Anglesey County Council v Welsh Ministers* [2009] EWCA Civ 94, [2009] 3 All E.R. 1110)

(14) A breach of a provision of delegated legislation is no different than a breach of the primary act itself. (*National Telephone Company v Baker* [1892 N. 2.], [1893] 2 Ch. 186 at 203)

#### Factual background

(15) Four forms of the certificate referred to in article 14(1) have been published by the Secretary of State.

(16) These forms are referred to as ownership certificates A, B, C, and D.

(17) The form of the certificate referred to as ownership certificate A states:

“[I certify]/[The applicant certifies] that on the day 21 days before the date of this application nobody except [myself]/[the applicant] was the owner of any part of the land or building to which the application relates, and that none of the land to which the application relates is, or is part of, an agricultural holding.”

(18) The form of the certificate referred to as ownership certificate B states:

“[I certify]/[The applicant certifies] that [I have]/[the applicant has] given the requisite notice to everyone else (as listed below) who, on the day 21 days before the date of this application, was the owner and/or agricultural tenant of any part of the land or building to which this application relates.”

(19) The form of the certificate referred to as ownership certificate C states:

“[I certify]/[The applicant certifies] that:

- Neither Certificate A or B can be issued for this application
- All reasonable steps have been taken to find out the names and addresses of the other owners and/or agricultural tenants of the land or building, or of a part of it, but [I have]/[the applicant has] been unable to do so.”

(20) The form of the certificate referred to as ownership certificate D states:

“[I certify]/[The applicant certifies] that:

- Certificate A cannot be issued for this application
- All reasonable steps have been taken to find out the names and addresses of everyone else who, on the day 21 days before the date of this application, was the owner and/or agricultural tenant of any part of the land to which this application relates, but [I have]/[the applicant has] been unable to do so.”

(21) The application form provides that:

“The application site must be edged clearly with a red line on the location plan. It should include all land necessary to carry out the proposed development (e.g. land required for access to the site from a public highway, visibility splays (access around a road junction or access, which should be free from obstruction), landscaping, car parking and open areas around buildings).”

### Ownership certificates

(22) Article 7(1)(c)(i) of the 2015 Order provides that a plan that identifies “the land to which the application relates” must be included with applications for planning permission. Article 13(1) of the 2015 Order requires that an applicant for planning permission must notify the owners “the land to which the application relates”. Article 14 of the 2015 Order provides that applicants must certify, in a form published by the Secretary of State or in a form substantially to the same effect that the relevant requirements of article 13 have been satisfied. The forms published by the Secretary of State, referred to as ownership certificates, also refer to the land to which the application relates.

(23) The meaning of the phrase “the land to which the application relates” is a question of statutory interpretation. It is not a matter of planning judgment, as the Council has sometimes asserted.

(24) When the government department administering an act publishes official statements in regards to the act, those statements may be taken into account as a persuasive authority on the meanings of the act’s provisions. (*Oram (Inspector of Taxes) v Johnson* [1980] 2 All E.R. 1 at 6)

(25) The application instructions published by the Ministry of Housing, Communities and Local Government stipulate that the land to which an application relates includes “all land necessary to carry out the proposed development”.

(26) “All land necessary to carry out the proposed development” is not the same as any land proposed to undergo operational development or a material change of use, which is how the Council has misinterpreted the provisions of the 2015 Order.

### Position of red line on location plan

(27) Moving the red line shown on the location plan does not change the land to the application relates.

(28) However, moving the red line shown on the location plan such that it excludes land to which the application relates can invalidate the application if the application would no longer comply with the provisions of article 7(1)(b) and article 7(1)(c)(ii) of the 2015 Order.

(29) Whilst moving the position red line shown on the location plan An applicant can not change the land to which a planning application relates by simply moving the position of the red line shown on the location plan, and likewise, moving the red line shown on the location plan does not change the land to which the ownership certificate pertains.

Land to which application relates vs. land proposed to undergo operational development/change of use

- (30) The application form instructions published by the Ministry of Housing, Communities and Local Government clarify that the land to which a planning application relates is the land necessary to carry out the proposed development, not the land proposed to undergo operational development or a material change of use, as the Council has posited.
- (31) Again, when the government department administering an act publishes official statements in regards to the act, those statements may be taken into account as a persuasive authority on the meanings of the act's provisions. (*Oram (Inspector of Taxes) v Johnson* [1980] 2 All E.R. 1 at 6)
- (32) Even if the court were not to agree with our approach to the interpretation of the phrase "land to which the application relates", the Council's position that land owned by the local highway authority can be excluded from land to which an application relates is doomed to fail on the basis of section 55 of the 1990 Act.
- (33) Under the provisions of subsections 55(1) and 55(2) of the 1990 Act, any building, engineering, or other operations carried out in, on, over, or under land will be considered to be development unless all of the following apply:
- 1) the work is being carried out within the boundaries of a "road",
  - 2) the work is being carried out "by" a highway authority,
  - 3) the work constitutes the maintenance or improvement of the "road", and
  - 4) if the work is not exclusively for maintenance, it does not or will not "have significant adverse effects on the environment".
- (34) Accordingly, it appears to be immaterial whether the land in question is:
- 1) owned by a highway authority,
  - 2) within a highway,
  - 3) within a public highway,
  - 4) within a private highway, or
  - 5) within an adopted highway.
- (35) The local highway authority for the district of South Cambridgeshire is the Cambridgeshire County Council.
- (36) To the best of the Consortium's knowledge, the Cambridgeshire County Council does not offer a service whereby it undertakes building, engineering, or other operations to carry out works associated with private developments.

Ramifications for planning application 20/02453/S73 (Fews Lane, Longstanton)

- (37) No location plan has been submitted for this application. Accordingly, the application relies on the location plan comprised within the application for the extant planning permission (S/0277/19/FL). That location plan fails to identify the land to which the application relates as is required under article 7(1)(c)(i) of the 2015 Order. Application 20/02453/S73 is therefore invalid and can not be determined pursuant to sections 65 and 327A of the 1990 Act.

Ramifications for planning application 20/03370/OUT (95 Bannold Road, Waterbeach)

(38) The location plan fails to identify the land to which the application relates as is required under article 7(1)(c)(i) of the 2015 Order. Application 20/03370/OUT is therefore invalid and can not be determined pursuant to sections 65 and 327A of the 1990 Act.

Update concerning proposed development at 17 Mill Lane, Arrington

(39) The Consortium has decided not to pursue a prohibiting order in regards to this section 73 application. The reason for this is because we feel that it is likely that the Council will make additional errors of law when determining the application and that the court will be more likely to grant relief at that time. The Consortium will be providing further representations on this application in due course, but you may consider the Consortium's pre-action letter in regards to this application to be withdrawn.

(40) I hope this letter will be helpful in explaining the Consortium's positions on the issues discussed. If I can provide further clarification, please do let me know.

Kind regards



Daniel Fulton  
Director

[REDACTED]

[REDACTED]

[REDACTED]

---

**From:** Stephen Reid  
**Sent:** 08 September 2020 10:17  
**To:** Daniel Fulton <dgf@fewslane.co.uk>  
**Cc:** Fiona Bradley <Fiona.Bradley@greatercambridgeplanning.org>; Simpson Luke <Luke.Simpson@greatercambridgeplanning.org>  
**Subject:** FW: Response to email from 4 September

Dear Fews Lane Consortium Ltd

1. I acknowledge receipt of your email sent at 08:35 this morning which refers to an "...attached letter in response to ( my )email from 4<sup>th</sup> September..."
2. The attachment to my email of 4<sup>th</sup> September includes a heading as follows:  

"Planning Permission under S/4191/19/FL"
3. I raise this in the context that I note the attached does not have at the start any heading but later on it includes what I might describe as 3 sub-headings as follows

"Ramifications for planning application 20/02453/S73 (Fews Lane, Longstanton)

.....

Ramifications for planning application 20/03370/OUT (95 Bannold Road, Waterbeach)

.....

Update concerning proposed development at 17 Mill Lane, Arrington

....."

4. I cannot immediately see in the attached response any heading or sub-heading which directly refers to the planning application/planning permission under S/4191/19/FL so may I invite you to clarify that the attached response (other than in relation to the 3 sub-headings as referred to and the text under those sub-headings ) is the Consortium's position is as to Planning Permission under S/4191/19/FL and whether the Consortium are willing to comment as to what they see as the next steps in such regard.

**Stephen Reid**

Senior Planning Lawyer

3C Shared Services – Legal Practice



Telephone: 0781 7730893

Email: [stephen.reid@3csharedservices.org](mailto:stephen.reid@3csharedservices.org)

3C Shared Services is a strategic partnership between Cambridge City Council, Huntingdonshire District Council and South Cambridgeshire District Council

**3C Legal Practice – Our Commitment to our Clients:-**

- We will endeavour to return telephone calls within 24hrs.
- We will acknowledge correspondence (including Emails) within 2 working days of receipt.
- We will make sure our clients are aware of the Practice's complaints procedure.
- We will agree key deadlines/operational requirements with clients within 5 working days.
- We will regularly update our clients on progress (weekly unless no movement on a particular matter)

---

**From:** Daniel Fulton <[dgf@fewslane.co.uk](mailto:dgf@fewslane.co.uk)>

**Sent:** 08 September 2020 08:35

**To:** Stephen Reid <[Stephen.Reid@3csharedservices.org](mailto:Stephen.Reid@3csharedservices.org)>

**Subject:** Response to email from 4 September

Dear Mr Reid,

Please see the attached letter in response to your email from 4 September.

Kind regards,

Daniel Fulton

Director

Fews Lane Consortium Ltd  
The Elms  
Fews Lane  
Longstanton  
Cambridge  
CB24 3DP

tel. 01954 789237

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The Fews Lane Consortium Ltd is registered in England and Wales. Company No. 11688336

8 September 2020

South Cambridgeshire District Council  
FAO 3C Shared Services Legal Practice  
South Cambridgeshire Hall  
Cambourne Business Park  
Cambourne  
Cambridge CB23 6EA

Dear Sirs

- (1) Thank you for your letter dated 4 September 2020 clarifying the Council's position on a number of key issues.
- (2) In light of these clarifications, the Consortium would like to call the Council's attention to the following relevant provisions of law.

#### Legal Framework

- (3) Section 55(1) of the Town and Country Planning Act 1990 (the "**1990 Act**") provides that:

"Subject to the following provisions of this section, in this Act, except where the context otherwise requires, 'development,' means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land."

- (4) Section 336(1) of the 1990 Act provides that:

"'engineering operations' includes the formation or laying out of means of access to highways".

- (5) Section 55(2) of the 1990 Act provides that (emphasis added):

"The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land — [...]

(b) the carrying out on land **within the boundaries of a road by a highway authority** of any works required for the maintenance or improvement of the road but, in the case of any such works which are not exclusively for the maintenance of the road, not including any works which may have significant adverse effects on the environment"

- (6) Section 65 of the 1990 Act provides that:

"(1) A development order may make provision requiring—

(a) notice to be given of any application for planning permission or permission in principle, and

(b) any applicant for such permission to issue a certificate as to the interests in the land to which the application relates or the purpose for which it is used, and provide for publicising such applications and for the form, content and service of such notices and certificates.

(2) Provision shall be made by a development order for the purpose of securing that, in the case of any application for planning permission, any person (other than the applicant) who on such date as may be prescribed by the order is an owner of the land to which the application relates, or an agricultural tenant of that land, is given notice of the application in such manner as may be required by the order.

(3) A development order may require an applicant for planning permission or permission in principle to certify, in such form as may be prescribed by the order, or to provide evidence, that any requirements of the order have been satisfied.

(3A) In subsections (1) and (3) references to any application for planning permission or any applicant for such permission include references to any application for approval under section 61L(2) or any applicant for such approval.

(4) A development order making any provision by virtue of this section may make different provision for different cases or different classes of development.

(5) A local planning authority shall not entertain an application for planning permission or permission in principle unless any requirements imposed by virtue of this section have been satisfied."

(7) Section 327A of the 1990 Act provides that:

"(1) This section applies to any application in respect of which this Act or any provision made under it imposes a requirement as to—

- (a) the form or manner in which the application must be made;
- (b) the form or content of any document or other matter which accompanies the application.

(2) The local planning authority must not entertain such an application if it fails to comply with the requirement."

(8) Article 7 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (the "**2015 Order**") provides that (emphasis added):

"(1) Subject to paragraphs (3) to (5), **an application for planning permission must—**

(a) be made in writing to the local planning authority on a form published by the Secretary of State (or a form to substantially the same effect);

(b) **include the particulars specified or referred to in the form;**

(c) except where the application is made pursuant to section 73 (determination of applications to develop land without conditions previously attached) or section 73A(2)(c) (planning permission for development already carried out) of the 1990 Act or is an application of a kind referred to in article 20(1)(b) or (c), be accompanied, whether electronically or otherwise, by—

(i) **a plan which identifies the land to which the application relates;**

(ii) any other plans, drawings and information necessary to describe the development which is the subject of the application".

(9) Article 13(1) of the 2015 Order provides that (emphasis added):

"Except where paragraph (2) applies, an applicant for planning permission **must give requisite notice** of the application to any person (other than the applicant) who on the prescribed date is an owner of **the land to which the application relates**, or a tenant—

(a) by serving the notice on every such person whose name and address is known to the applicant; and

(b) where the applicant has taken reasonable steps to ascertain the names and addresses of every such person, but has been unable to do so, by publication of the notice after the prescribed date in a newspaper circulating in the locality in which the land to which the application relates is situated."

(10) Article 14 of the 2015 Order provides that:

“(1) Where an application for planning permission is made, the applicant must certify, in a form published by the Secretary of State or in a form substantially to the same effect, that the relevant requirements of article 13 have been satisfied.”

(11) Delegated legislation made under an act is capable of being a persuasive authority on the meaning of the act's provisions. (*Hales v Bolton Leathers Ltd* [1951] A.C. 531, per Lord Simonds at 539, per Lord Normand at 544, and per Lord Oaksey at 548)

(12) When the government department administering an act publishes official statements in regards to the act, those statements may be taken into account as a persuasive authority on the meanings of the act's provisions. (*Oram (Inspector of Taxes) v Johnson* [1980] 2 All E.R. 1 at 6)

(13) The meaning of a provision of an act may be elucidated by reference to contemporary statements indicating how the provisions were understood at the time they were enacted, particularly in esoteric areas of law where cases rarely come before the courts and there is a long established practice. (*Isle of Anglesey County Council v Welsh Ministers* [2009] EWCA Civ 94, [2009] 3 All E.R. 1110)

(14) A breach of a provision of delegated legislation is no different than a breach of the primary act itself. (*National Telephone Company v Baker* [1892 N. 2.], [1893] 2 Ch. 186 at 203)

#### Factual background

(15) Four forms of the certificate referred to in article 14(1) have been published by the Secretary of State.

(16) These forms are referred to as ownership certificates A, B, C, and D.

(17) The form of the certificate referred to as ownership certificate A states:

“[I certify]/[The applicant certifies] that on the day 21 days before the date of this application nobody except [myself]/[the applicant] was the owner of any part of the land or building to which the application relates, and that none of the land to which the application relates is, or is part of, an agricultural holding.”

(18) The form of the certificate referred to as ownership certificate B states:

“[I certify]/[The applicant certifies] that [I have]/[the applicant has] given the requisite notice to everyone else (as listed below) who, on the day 21 days before the date of this application, was the owner and/or agricultural tenant of any part of the land or building to which this application relates.”

(19) The form of the certificate referred to as ownership certificate C states:

“[I certify]/[The applicant certifies] that:

- Neither Certificate A or B can be issued for this application
- All reasonable steps have been taken to find out the names and addresses of the other owners and/or agricultural tenants of the land or building, or of a part of it, but [I have]/[the applicant has] been unable to do so.”

(20) The form of the certificate referred to as ownership certificate D states:

“[I certify]/[The applicant certifies] that:

- Certificate A cannot be issued for this application
- All reasonable steps have been taken to find out the names and addresses of everyone else who, on the day 21 days before the date of this application, was the owner and/or agricultural tenant of any part of the land to which this application relates, but [I have]/[the applicant has] been unable to do so.”

(21) The application form provides that:

“The application site must be edged clearly with a red line on the location plan. It should include all land necessary to carry out the proposed development (e.g. land required for access to the site from a public highway, visibility splays (access around a road junction or access, which should be free from obstruction), landscaping, car parking and open areas around buildings).”

### Ownership certificates

(22) Article 7(1)(c)(i) of the 2015 Order provides that a plan that identifies “the land to which the application relates” must be included with applications for planning permission. Article 13(1) of the 2015 Order requires that an applicant for planning permission must notify the owners “the land to which the application relates”. Article 14 of the 2015 Order provides that applicants must certify, in a form published by the Secretary of State or in a form substantially to the same effect that the relevant requirements of article 13 have been satisfied. The forms published by the Secretary of State, referred to as ownership certificates, also refer to the land to which the application relates.

(23) The meaning of the phrase “the land to which the application relates” is a question of statutory interpretation. It is not a matter of planning judgment, as the Council has sometimes asserted.

(24) When the government department administering an act publishes official statements in regards to the act, those statements may be taken into account as a persuasive authority on the meanings of the act’s provisions. (*Oram (Inspector of Taxes) v Johnson* [1980] 2 All E.R. 1 at 6)

(25) The application instructions published by the Ministry of Housing, Communities and Local Government stipulate that the land to which an application relates includes “all land necessary to carry out the proposed development”.

(26) “All land necessary to carry out the proposed development” is not the same as any land proposed to undergo operational development or a material change of use, which is how the Council has misinterpreted the provisions of the 2015 Order.

### Position of red line on location plan

(27) Moving the red line shown on the location plan does not change the land to the application relates.

(28) However, moving the red line shown on the location plan such that it excludes land to which the application relates can invalidate the application if the application would no longer comply with the provisions of article 7(1)(b) and article 7(1)(c)(ii) of the 2015 Order.

(29) Whilst moving the position red line shown on the location plan An applicant can not change the land to which a planning application relates by simply moving the position of the red line shown on the location plan, and likewise, moving the red line shown on the location plan does not change the land to which the ownership certificate pertains.

Land to which application relates vs. land proposed to undergo operational development/change of use

- (30) The application form instructions published by the Ministry of Housing, Communities and Local Government clarify that the land to which a planning application relates is the land necessary to carry out the proposed development, not the land proposed to undergo operational development or a material change of use, as the Council has posited.
- (31) Again, when the government department administering an act publishes official statements in regards to the act, those statements may be taken into account as a persuasive authority on the meanings of the act's provisions. (*Oram (Inspector of Taxes) v Johnson* [1980] 2 All E.R. 1 at 6)
- (32) Even if the court were not to agree with our approach to the interpretation of the phrase "land to which the application relates", the Council's position that land owned by the local highway authority can be excluded from land to which an application relates is doomed to fail on the basis of section 55 of the 1990 Act.
- (33) Under the provisions of subsections 55(1) and 55(2) of the 1990 Act, any building, engineering, or other operations carried out in, on, over, or under land will be considered to be development unless all of the following apply:
- 1) the work is being carried out within the boundaries of a "road",
  - 2) the work is being carried out "by" a highway authority,
  - 3) the work constitutes the maintenance or improvement of the "road", and
  - 4) if the work is not exclusively for maintenance, it does not or will not "have significant adverse effects on the environment".
- (34) Accordingly, it appears to be immaterial whether the land in question is:
- 1) owned by a highway authority,
  - 2) within a highway,
  - 3) within a public highway,
  - 4) within a private highway, or
  - 5) within an adopted highway.
- (35) The local highway authority for the district of South Cambridgeshire is the Cambridgeshire County Council.
- (36) To the best of the Consortium's knowledge, the Cambridgeshire County Council does not offer a service whereby it undertakes building, engineering, or other operations to carry out works associated with private developments.

Ramifications for planning application 20/02453/S73 (Fews Lane, Longstanton)

- (37) No location plan has been submitted for this application. Accordingly, the application relies on the location plan comprised within the application for the extant planning permission (S/0277/19/FL). That location plan fails to identify the land to which the application relates as is required under article 7(1)(c)(i) of the 2015 Order. Application 20/02453/S73 is therefore invalid and can not be determined pursuant to sections 65 and 327A of the 1990 Act.

Ramifications for planning application 20/03370/OUT (95 Bannold Road, Waterbeach)

(38) The location plan fails to identify the land to which the application relates as is required under article 7(1)(c)(i) of the 2015 Order. Application 20/03370/OUT is therefore invalid and can not be determined pursuant to sections 65 and 327A of the 1990 Act.

Update concerning proposed development at 17 Mill Lane, Arrington

(39) The Consortium has decided not to pursue a prohibiting order in regards to this section 73 application. The reason for this is because we feel that it is likely that the Council will make additional errors of law when determining the application and that the court will be more likely to grant relief at that time. The Consortium will be providing further representations on this application in due course, but you may consider the Consortium's pre-action letter in regards to this application to be withdrawn.

(40) I hope this letter will be helpful in explaining the Consortium's positions on the issues discussed. If I can provide further clarification, please do let me know.

Kind regards



Daniel Fulton  
Director

[REDACTED]

---

[REDACTED]

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**From:** Daniel Fulton <dgf@fewslane.co.uk>  
**Sent:** 28 September 2020 07:45  
**To:** Stephen Reid <Stephen.Reid@3csharingservices.org>  
**Subject:** 95 Bannold Road, Waterbeach

Dear Mr Reid,

Please see the attached pre-action letter concerning the proposed development at 95 Bannold Road, Waterbeach.

Kind regards,

Daniel Fulton  
Director

Fews Lane Consortium Ltd  
The Elms  
Fews Lane  
Longstanton  
Cambridge  
CB24 3DP

tel. 01954 789237

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The Fews Lane Consortium Ltd is registered in England and Wales. Company No. 11688336

28 September 2020

South Cambridgeshire District Council  
FAO 3C Shared Services Legal Practice  
South Cambridgeshire Hall  
Cambourne Business Park  
Cambourne  
Cambridge CB23 6EA

Dear Sirs

**Judicial review pre-action protocol: 20/03370/OUT - 95 Bannold Road, Waterbeach**

- (1) The South Cambridgeshire District Council (the "**Council**") is the prospective defendant in a claim for judicial review. A copy of this letter has been sent to the Council by first class post at the address written above.
- (2) The prospective claimant is the Fews Lane Consortium Ltd (the "**Consortium**"), The Elms, Fews Lane, Longstanton, CB24 3DP. The Consortium is a community action group that represents the interests of local residents in issues of planning and development.
- (3) The prospective claim concerns the Council's decision to consider planning application 20/03370/OUT, which seeks outline planning permission with some matters reserved except for access for the demolition of the existing house and the erection of five dwellings at 95 Bannold Road, Waterbeach, Cambridge CB25 9LQ.
- (4) The prospective claimant considers the applicant to be an interested party. A copy of this letter has been sent to the applicant by first class post to Mr Sanders, 10 Reuben Road, Landbeach, Cambridge CB25 9FE.
- (5) The Council's consideration of planning application 20/03370/OUT is unlawful pursuant to section 327A of the Town and Country Planning Act 1990 (the "**1990 Act**") because the application does not comply with the requirements of article 7 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (the "**2015 Order**").
- (6) Section 327A of the 1990 Act provides that:
  - “(1) This section applies to any application in respect of which this Act or any provision made under it imposes a requirement as to—
    - (a) the form or manner in which the application must be made;
    - (b) the form or content of any document or other matter which accompanies the application.
  - (2) The local planning authority must not entertain such an application if it fails to comply with the requirement.”
- (7) Article 7 of the 2015 Order provides that (emphasis added):

- “(1) Subject to paragraphs (3) to (5), **an application for planning permission must—**
- (a) be made in writing to the local planning authority on a form published by the Secretary of State (or a form to substantially the same effect);
  - (b) **include the particulars specified or referred to in the form;**
  - (c) except where the application is made pursuant to section 73 (determination of applications to develop land without conditions previously attached) or section 73A(2)(c) (planning permission for development already carried out) of the 1990 Act or is an application of a kind referred to in article 20(1)(b) or (c), be accompanied, whether electronically or otherwise, by—
    - (i) **a plan which identifies the land to which the application relates;**
    - (ii) any other plans, drawings and information necessary to describe the development which is the subject of the application”.

- (8) The application form, published by the Ministry of Housing, Communities and Local Government, states that:

“The application site must be edged clearly with a red line on the location plan. It should include all land necessary to carry out the proposed development (e.g. land required for access to the site from a public highway, visibility splays (access around a road junction or access, which should be free from obstruction), landscaping, car parking and open areas around buildings).”

- (9) In the case of application 20/03370/OUT, the location plan does not identify all of the land to which the application relates as is required under article 7(1)(c)(i) of the 2015 Order, and the application does not include the particulars specified in the application form as is required under article 7(1)(b) of the 2015 Order. Accordingly, the application can not be entertained by the Council pursuant to the provisions of section 327A of the 1990 Act.

#### Interpretation of Article 7(1) of the 2015 Order

- (10) Article 7(1) of the 2015 Order provides that “an application for planning permission must— [...] be accompanied [...] by a plan which identifies the land to which the application relates”.
- (11) When the government department administering an act publishes official statements in regards to the act, those statements may be taken into account as a persuasive authority on the meanings of the act’s provisions. (*Oram (Inspector of Taxes) v Johnson* [1980] 2 All E.R. 1 at 6)
- (12) The application form, published by the Ministry of Housing, Communities and Local Government<sup>1</sup>, which is the government department responsible for administering the 1990 Act, provides that:

“The application site must be edged clearly with a red line on the location plan. It should include all land necessary to carry out the proposed development (e.g. land required for access to the site from a public highway, visibility splays (access around a road junction or access, which should be free from obstruction), landscaping, car parking and open areas around buildings).”

- (13) The meaning of a provision of an act may be elucidated by reference to contemporary statements indicating how the provisions were understood at the time they were enacted, particularly in esoteric areas of law where cases rarely come before the courts and there is a long established practice. (*Isle of Anglesey County Council v Welsh Ministers* [2009] EWCA Civ 94, [2009] 3 All E.R. 1110)

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<sup>1</sup> Prior to 8 January 2018, the Ministry of Housing, Communities and Local Government was referred to as the Ministry for Communities and Local Government.

- (14) At the time the 2015 Order was made, the planning application form instructions published by the Ministry of Communities and Local Government provided that:

“The application site must be edged clearly with a red line on the location plan. It should include all land necessary to carry out the proposed development (e.g. land required for access to the site from a public highway, visibility splays (access around a road junction or access, which should be free from obstruction), landscaping, car parking and open areas around buildings).”

- (15) Pursuant to the principles of statutory interpretation employed by the courts in *Oram* and *Isle of Anglesey*, the statements contained in the official forms and instructions published by the Ministry of Housing, Communities and Local Government, both at the time the 2015 Order was made and subsequent to the time the 2015 Order was made, are both capable of being persuasive authorities as to the proper interpretation of the relevant provisions of article 7 of the 2015 Order.

- (16) Article 7 of the 2015 Order requires that applications for planning permission include “a plan which identifies the land to which the application relates” and also that applications for planning permission must “include the particulars specified or referred to in the form”. The particulars specified in the application form require that:

“The application site must be edged clearly with a red line on the location plan. It should include all land necessary to carry out the proposed development (e.g. land required for access to the site from a public highway, visibility splays (access around a road junction or access, which should be free from obstruction), landscaping, car parking and open areas around buildings).”

- (17) It is acknowledged that not every planning application will require visibility splays. For example, if an application were submitted for a city centre development where no vehicular access to the site was possible, visibility splays would obviously not be required. However, the Consortium intends to submit that where an application creates a new vehicular access or proposes the intensified use of an existing vehicular access, the land necessary for visibility splays must be included within the area defined by the red line on the location plan.

- (18) The requirements of article 7 of the 2015 Order are statutory requirements, and neither local planning authorities nor the Secretary of State have the power to ignore the statutory requirements in any case. Any dispute as to whether the statutory requirements have been met is a question within the jurisdiction of the courts. This question can be contrasted with the question of whether visibility splays are necessary to make a proposed development or change of use acceptable in planning terms, which is a question of judgment purely within the purview of the decision maker, subject to the usual legal tests on unreasonableness.

- (19) The Council has previously obtained legal advice advancing the position that the land required to carry out a proposed development includes only the land that must undergo operational development or is subject to a change of use. No authorities have been provided in support of this position, and indeed, the Council's position is at odds with the approved principles of statutory interpretation outlined above.

- (20) A visibility splay will not be maintained free of vegetation without some sort of intervention. This intervention can either take the form of regular and ongoing maintenance to remove vegetation or the installation of hardstanding such as asphalt or concrete, which would prevent the growth of vegetation.

- (21) The ongoing maintenance of land necessary to remove vegetation and maintain a functional visibility splay requires a positive planning condition to be attached to any permission granted, and a positive planning conditions may only be applied to land that is within the application site or within

the control of the applicant. In *Mouchell Superannuation Fund Trustees v Oxfordshire County Council* [1992] 1 P.L.R. 97 at 105, Glidewell LJ states that:

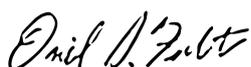
“a condition requiring the carrying out of works may validly be imposed only if the works are to be carried out on land either within the application site or on other land 'under the control of the applicant'. Thus, a condition purporting to require the carrying out of works on land neither within the application site nor within the control of the applicant is outside the powers of the Act”.

- (22) If the interpretation of article 7 as advanced in the Council's legal advice were to be accepted, it would be impossible to attach positive conditions requiring the maintenance of visibility splays in cases where the land in question did not require a change of use or operational development. This interpretation of article 7 would create the very kind of mischief that article 7 and the instructions in the application form were apparently designed to prevent.
- (23) In installation of paving such as asphalt or concrete to prevent the growth of visibility splays constitutes operation development under sections 55(1) and 55(2) of the 1990 Act unless all of the following criteria apply:
- 1) the work is being carried out within the boundaries of a “road”,
  - 2) the work is being carried out “by” a highway authority,
  - 3) the work constitutes the maintenance or improvement of the “road”, and
  - 4) if the work is not exclusively for maintenance, it does not or will not “have significant adverse effects on the environment”.
- (24) There may be many ways to achieve functional visibility splays for any given application, for example, by a positive condition, a Grampian condition, or through a planning obligation. However, the Consortium would intend to submit that the question of how best to achieve the functional visibility splay is a matter of planning judgment for the decision maker.
- (25) For a local planning authority to accept as valid and to proceed to consider a planning application that plainly fails to comply with the requirements of article 7 and the requirements stated in the application form, would in effect remove the option of the positive planning condition from the decision maker's choices. This effectively constitutes predetermination of the application, at least in regards to a positive condition for the maintenance of visibility splays, and where the issue of visibility splays goes to the root of the decision as to whether to grant planning permission, this predetermination may be sufficient for the court to decide to quash a planning permission granted in such circumstances.
- (26) The failure to properly identify the land to which the application relates is also extraordinarily prejudicial to the ability of statutory consultees and members of the public to give intelligent consideration and response to planning proposals during periods of consultations.
- (27) Officers of local highway authorities should be able to rely on the fact that application documents that have been validated by the local planning authority and published for consultation correctly depict the land to which the application relates by outlining that land in red on the location plan, as is required under article 7. Whilst in an ideal world, local highway authority officers might be well versed in the nuances of planning law, this is usually not the case, and both statutory consultees and members of the public rely on the validation opinion of the local planning authority to establish that the land to which the planning application relates has been correctly identified on the location plan in accordance with the relevant legal standards. A local planning authority that consults on an application with an invalid location plan not only violates section 327A of the 1990 Act, but also potentially renders the consultation on the application unlawful on grounds of procedural impropriety. (See *R v North and East Devon Health Authority ex p Coughlan* [1999] EWCA Civ 1871, [2001] Q.B. 213 at [112].)

Pre-action protocol

- (28) For these reasons, the Consortium will be seeking an order to prohibit the Council from considering planning application 20/03370/OUT, unless a decision to grant outline planning permission is issued by the Council, in which case a quashing order will be sought. The Consortium will also seek a declaration that the Council has erred in law and an order that the Council pays the Consortium's costs in the claim.
- (29) The Consortium may also decide to seek interim relief in the event that the Council proceeds with the unlawful consideration of the application. If interim relief is to be sought, the Consortium will endeavour, insofar as is possible, to give the Council 7 days notice before any such interim relief is sought from the court.
- (30) The Consortium would prefer to resolve this matter as quickly and efficiently as possible. To that end, the Consortium would ask the Council to inform the applicant as soon as possible that insufficient information has been submitted with the application and stating that a location plan should be submitted showing the land necessary for visibility splays included within the red line boundaries. Once such a plan is received, the Council could then proceed with the lawful consideration of the application.
- (31) The Consortium would be pleased to consider any form of alternate dispute resolution that might be proposed by the Council.
- (32) The Consortium intends to issue proceedings as an Aarhus Convention claim pursuant to Parts 45.41 – 45.45 of the Civil Procedure Rules because the claim challenges the legality of a decision of a body exercising a public function which is within the scope of Article 9(2) of the UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters agreed at Aarhus, Denmark on 25 June 1998 (the Aarhus Convention).
- (33) Although funding has not yet been arranged for the claim, the Consortium does not envisage that it will be necessary to propose any variation of the standard limits on recoverable costs as stated in Parts 45.43(2)(b) and 45.43(3) of the Civil Procedure Rules.
- (34) In the event that a claim does become necessary, a statement of the prospective claimant's financial resources and a statement of financial support received will be provided to the prospective defendant at the earliest opportunity and no later than the time the claim is issued.
- (35) The Consortium's address for the response and service of documents is: Few's Lane Consortium Ltd, The Elms, Few's Lane, Longstanton, Cambridge CB24 3DP. Please note that the Few's Lane Consortium Ltd does NOT accept service by email.
- (36) The Consortium would like to propose a reply date of 12 October 2020, which is 14 days from the date of this letter.

Kind regards



Daniel Fulton  
Director

[REDACTED]

[REDACTED]

[REDACTED]

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**From:** Stephen Reid  
**Sent:** 02 October 2020 17:36  
**To:** Daniel Fulton <dgf@fewslane.co.uk>  
**Cc:** Legal Professional Services <legal@cambridge.gov.uk>  
**Subject:** Bannold road -letter to Fewslane consortium Ltd2ndOct

Dear Fewslane Consortium Ltd

Please see attached.

A copy will be posted to you next week but in the interim please advise whether you are willing to email to confirm receipt by email..

**Stephen Reid**  
Senior Planning Lawyer  
3C Shared Services – Legal Practice  
  
Telephone: 0781 7730893  
Email: [stephen.reid@3csharedservices.org](mailto:stephen.reid@3csharedservices.org)

3C Shared Services is a strategic partnership between Cambridge City Council, Huntingdonshire District Council and South Cambridgeshire District Council

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- We will make sure our clients are aware of the Practice's complaints procedure.
- We will agree key deadlines/operational requirements with clients within 5 working days.
- We will regularly update our clients on progress (weekly unless no movement on a particular matter)



Fews Lane Consortium Ltd  
The Elms  
Longstanton  
Cambridge  
CB24 3DP

**3C Shared Services - Legal Practice**  
**acting for South Cambridgeshire District Council**  
Please send all correspondence to:  
South Cambridgeshire Hall, Cambourne Business Park  
Cambourne, Cambridge, CB23 6EA  
DX 729500, Cambridge 15  
Main Switchboard: 01 223 457000  
Head of Legal Practice: Tom Lewis

Practice Ref: SR/SCK  
Your Ref:

Date: 2<sup>nd</sup> October 2020

Dear Fews Lane Consortium Ltd

**Judicial Review – Pre-Action Protocol**  
**20/03370/OUT – 95 Bannold Road, Waterbeach**

1. I am conscious that in your letter dated 28<sup>th</sup> September and headed as above you have included the following:

“(20) A visibility splay will not be maintained free of vegetation without some sort of intervention. This intervention can either take the form of regular and ongoing maintenance to remove vegetation or the installation of hardstanding such as asphalt or concrete, which would prevent the growth of vegetation.

(21) The ongoing maintenance of land necessary to remove vegetation and maintain a functional visibility splay requires a positive planning condition to be attached to any permission granted, and a positive planning condition may only be applied to land that is within the application site or within the control of the applicant. In *Mouchell Superannuation Fund Trustees v Oxfordshire County Council* [1992] 1 P.L.R. 97 at 105, Glidewell LJ states that: “a condition requiring the carrying out of works may validly be imposed only if the works are to be carried out on land either within the application site or on other land ‘under the control of the applicant’. Thus, a condition purporting to require the carrying out of works on land neither within the application site nor within the control of the applicant is outside the powers of the Act”.

(22) If the interpretation of article 7 as advanced in the Council’s legal advice were to be accepted, it would be impossible to attach positive conditions requiring the maintenance of visibility splays in cases where the land in question did not require a change of use or operational development. This interpretation of article 7 would create the very kind of mischief that article 7 and the instructions in the application form were apparently designed to prevent.

(23) In installation of paving such as asphalt or concrete to prevent the growth of visibility splays constitutes operation development under sections 55(1) and 55(2) of the 1990 Act unless all of the following criteria apply: 1) the work is being carried out within the boundaries of a “road”, 2) the work is being carried out “by” a highway authority, 3) the work constitutes the maintenance or improvement of the “road”, and 4) if the work is not exclusively for maintenance, it does not or will not “have significant adverse effects on the environment”

(24) There may be many ways to achieve functional visibility splays for any given application, for example, by a positive condition, a Grampian condition, or through a planning obligation.

However, the Consortium would intend to submit that the question of how best to achieve the functional visibility splay is a matter of planning judgment for the decision maker.

(25) For a local planning authority to accept as valid and to proceed to consider a planning application that plainly fails to comply with the requirements of article 7 and the requirements stated in the application form, would in effect remove the option of the positive planning condition from the decision maker's choices. This effectively constitutes predetermination of the application, at least in regards to a positive condition for the maintenance of visibility splays, and where the issue of visibility splays goes to the root of the decision as to whether to grant planning permission, this predetermination may be sufficient for the court to decide to quash a planning permission granted in such circumstances.

(26) The failure to properly identify the land to which the application relates is also extraordinarily prejudicial to the ability of statutory consultees and members of the public to give intelligent consideration and response to planning proposals during periods of consultations.

(27) Officers of local highway authorities should be able to rely on the fact that application documents that have been validated by the local planning authority and published for consultation correctly depict the land to which the application relates by outlining that land in red on the location plan, as is required under article 7. Whilst in an ideal world, local highway authority officers might be well versed in the nuances of planning law, this is usually not the case, and both statutory consultees and members of the public rely on the validation opinion of the local planning authority to establish that the land to which the planning application relates has been correctly identified on the location plan in accordance with the relevant legal standards. A local planning authority that consults on an application with an invalid location plan not only violates section 327A of the 1990 Act, but also potentially renders the consultation on the application unlawful on grounds of procedural impropriety. (See *R v North and East Devon Health Authority ex p Coughlan* [1999] EWCA Civ 1871, [2001] Q.B. 213 at [112].)....”

2. It is my intention to respond to your letter in full but before I do so, can I invite you to indicate if you are willing to comment on any of the following sections of the Highways Act 1980 as I am conscious that you do not include references to any of the following:

- Section 36 (6): which requires the Highway Authority to maintain a list of streets that are adopted public highway.
- Section 41: which places a duty on the Highway Authority to maintain the adopted public highway (and which in my view includes a duty to maintain relevant visibility splays within the adopted highway and where the failure to do so would be to create a safety hazard).
- Section 154: which specifically permits the Highway Authority to remove all and any vegetation from land of third parties where it overhangs the highway and thus obstructs ‘the view of drivers of vehicles.’

3. Also, please point me to any planning decision (including in particular any decision on a planning appeal) where a Judicial Review has been successful because the Courts have held that the original application was invalid because the red line boundary had omitted to show relevant vehicular visibility splays within the adopted highway. I raise this not least in the context that there are literally hundreds and thousands of cases, including those decided by way of planning appeal, where as far as I am aware, the points you are now seeking to make in relation to the adopted highway have not been successfully argued and have not resulted in a relevant planning permission being quashed as a result. It may be that you think this is because no one has previously sought to raise what you have set out in para (18) of your letter, namely as follows:

“(18) The requirements of article 7 of the 2015 Order are statutory requirements, and neither local planning authorities nor the Secretary of State have the power to ignore the statutory requirements in any case. Any dispute as to whether the statutory requirements have been met is a question within the jurisdiction of the courts. This question can be contrasted with the question of whether visibility splays are necessary to make a proposed development or change of use acceptable in planning terms, which is a question of judgment purely within the purview of the decision maker, subject to the usual legal tests on unreasonableness...”

- 4 I am conscious that in para (21) of your letter you suggest “..the ongoing maintenance of land necessary to remove vegetation and maintain a functional visibility splay requires a positive planning condition to be attached to any permission granted..” and you then continue that “..a positive planning condition may only be applied to land that is within the application site or within the control of the applicant..” and you cite in support the decision in *Mouchell Superannuation Fund Trustees v Oxfordshire County Council* [1992] but I would submit the facts in that case are not comparable to the facts at Bannold Road, Waterbeach and there is nothing in that decision which to my mind supports your proposition that the red line must include visibility splays in the adopted highway.
5. Also, so that I am clear, are you suggesting the decision *R v North and East Devon Health Authority ex p Coughlan* [1999] EWCA Civ 1871, [2001] Q.B. 213 at [112]
- (i) includes a specific finding that a local planning authority that consults on an application with an invalid location plan violates section 327A of the 1990 Act, and/or
  - (ii) establishes a specific finding that a local planning authority that consults on a planning application with an invalid location plan potentially renders the consultation on the application unlawful on grounds of procedural impropriety

I raise (i) above in particular not least because the decision in *R v North and East Devon Health Authority ex p Coughlan* [1999] EWCA Civ 1871, [2001] Q.B. 213 was concerned with a case where, in summary, the following applied;

The case involved a severely disabled lady, Miss Coughlan, who was receiving nursing care in Mardon House, a National Health Service facility managed by the North and East Devon Health Authority.

The Authority had made several representations to her that she would be able to live out her days in Mardon House.

Subsequently, the Health Authority decided to shut the facility down as the cost of operating it was becoming excessive. Coughlan sought judicial review of the Authority's decision claiming that its representations had induced in her a legitimate expectation that Mardon House would be her home for life.

The Court of Appeal decided the matter in Coughlan's favour. It took into account the importance of the promise to her, and the fact that the consequence to the Health Authority of honouring the promise was merely financial in nature, and while the Authority had agreed to fund the cost of her treatment it had offered no alternative permanent accommodation.

In the circumstances, the Court was of the view that for the Authority to frustrate Coughlan's legitimate expectation was so unfair that it amounted to an abuse of power.

Furthermore, there were no overriding public interest considerations to justify the Authority's decision.

6. Please advise if you have a written advice from Counsel that supports the principles of the points set out in your letter dated 28<sup>th</sup> September.
7. May I request that you confirm within the next 5 working days if you are willing to respond to the above and to do so within that period so that I am then able to write to you in full in response to your letter of 28<sup>th</sup> September but taking into account any additional comments you wish to make in response to the above.

Yours faithfully

Stephen Reid  
Senior Planning Lawyer  
**acting for South Cambridgeshire District Council**

Tel: 07817 730893

Email: [stephen.reid@3csharedservices.org](mailto:stephen.reid@3csharedservices.org)

[Redacted]

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[Redacted]

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**From:** Daniel Fulton <dgf@fewslane.co.uk>  
**Sent:** 07 October 2020 08:18  
**To:** Stephen Reid <Stephen.Reid@3csharingservices.org>  
**Subject:** 95 Bannold Road, Waterbeach

Dear Mr Reid,

Please see the attached letter in response to your email from 2 October.

Kind regards,

Daniel Fulton  
Director

Fews Lane Consortium Ltd  
The Elms  
Fews Lane  
Longstanton  
Cambridge  
CB24 3DP

tel. 01954 789237

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7 October 2020

South Cambridgeshire District Council  
FAO 3C Shared Services Legal Practice  
South Cambridgeshire Hall  
Cambourne Business Park  
Cambourne  
Cambridge CB23 6EA

Dear Mr Reid

- (1) Thank your email of 2 October 2020.
- (2) I concur with your interpretation of section 36(6) of the Highways Act 1980.
- (3) I concur with your interpretation of section 41(1) of the Highways Act 1980 insofar as the highway authority for a highway maintainable at public expense is under a duty to maintain that highway, subject to the provisions of sections 41(2)-41(4).
- (4) I am unable to concur that the duty imposed upon highway authorities under section 41(1) of the Highways Act 1980 includes an obligation to maintain visibility splays necessitated for the use of private roads that access a highway maintainable at public expense. However, if you come across authorities that support this position, I would, of course, be willing to consider them.
- (5) Even if the highway authority had a duty to to maintain visibility splays for private roads accessing a highway maintainable at public expense, the questions of whether private roads accessing a public highway should be permitted, and if permitted, where they should be located, seem to me to be exactly the type of matters are intended to be addressed though the planning process. It would make sense that the relevant highway authority may wish to comment on any such proposals, and indeed under the provisions of the Town and Country Planning Act 1990 and the Town and Country Planning (Development Management Procedure) (England) Order 2015, local planning authorities are required to consult the relevant highway authority on applications for planning permission that would affect the public highway.
- (6) The provisions of section 154 of the Highways Act 1980 only relate to vegetation that "overhangs a highway or any other road or footpath to which the public has access". In my view, this does not include private roads such as the private access road proposed at 95 Bannold Road.
- (7) In paragraph 3, you write:

"Also, please point me to any planning decision (including in particular any decision on a planning appeal) where a Judicial Review has been successful because the Courts have held that the original application was invalid because the red line boundary had omitted to show relevant vehicular visibility splays within the adopted highway."

- (8) In *Main v Swansea City Council* (1985) 49 P. & C.R. 26 (1984), the Court of Appeal held that where a local planning authority has failed to both comply with a directly imposed statutory requirement concerning the consideration of a planning application and has also acted in breach of an express statutory prohibition, the court has the discretion to act to quash the permission granted at the insistence of any party with a sufficient interest in the matter.
- (9) Several other cases, which follow the same line of authority as *Main*, are referenced in *R (Bishop) v Westminster City Council* [2017] EWHC 3102 (Admin) at [23] and include *R (Pridmore) v Salisbury District Council* [2004] EWHC 2511 (Admin), [2005] 1 P. & C.R. 32 at [24]-[26] and [33]-[41] and *R (O'Brien) v West Lancashire Borough Council* [2012] EWHC 2376 (Admin) at [28]-[42].
- (10) It is the Consortium's position that "the land to which the application relates" is defined by the definition in the application form, which is given legal effect through article 7(1) of the 2015 Order. In our view, article 7(1) and the instructions in the application form both indicate that the red line boundary should properly identify "the land to which the application relates". The extent of the "land to which the application relates" is important for a number of reasons, one of which is the requirement to give notification to owners and agricultural tenants.
- (11) In regards to the proposed development at 95 Bannold Road, there is not only a failure to comply with the requirement as to the position of the red line, but the ownership certificate issued also appears to be false, and the applicant also appears to have failed to comply with the relevant statutory requirements as to notification.<sup>1</sup> There are express statutory prohibitions for local planning authorities in regards to each of these legal defects.
- (12) We have not identified any authorities where the sole legal defect in a planning application was that the red line boundaries shown on the location plan failed to include the land necessary for vehicular visibility splays within the adopted highway. However, if necessary, we are prepared to argue that such an application would be unlawful on the basis that the inclusion of the relevant land within the depicted boundaries of the land to which the application relates is necessary in order to allow for a positive planning condition to be lawfully attached to any permission granted. Should we need to argue this point, we will rely upon one or more of the following authorities: *Mouchell Superannuation Fund Trustees v Oxfordshire County Council* [1992] 1 P.L.R. 97, *Davenport v London Borough of Hammersmith and Fulham* [1999] (CO/4485/98), *British Railways Board v Secretary of State for the Environment* [1994] 1 EGLR 197, and/or *Grampian Regional Council v City of Aberdeen District Council* 1984 SC (HL) 58.
- (13) The principles of law as to the minimum standards for lawful public consultations set forth by Lord Woolf MR in *R v North and East Devon Health Authority ex p Coughlan* [1999] EWCA Civ 1871, [2001] Q.B. 213, and in particular the passage at [112], have been applied in the planning context in *R (Holborn Studios Ltd) v Hackney London Borough Council* [2017] EWHC 2823, [2018] P.T.S.R. 997 at [55].

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<sup>1</sup> In regards to the application at 95 Bannold Road, Ownership Certificate A has been filed. Although the Consortium has not yet searched the relevant documents on file with the Land Registry, we have been informed by individuals with considerable local knowledge that there is no evidence that the applicant does in fact own all of the land to which the application relates or even all owns all of the land outlined in red on the location plan.

In regards to planning application 20/02453/S73, which concerns The Retreat, Fews Lane, Ownership Certificate D has been filed. The certificate filed states that "All reasonable steps have been taken to find out the names and addresses of everyone else who, on the day 21 days before the date of this application, was the owner and/or agricultural tenant of any part of the land to which this application relates, but I have/the applicant has been unable to do so. [...] The steps taken were: Searches in Land Registry and advertising in local newspaper". If a search of the Land Registry was in fact conducted by or on behalf of the applicant, it was not conducted in a competent manner. Even if one were to use the applicant's own red line as the boundaries of the land to which the application relates, a competent search of the Land Registry reveals multiple registered owners of parts of the land in question. At least one additional owner can be identified from a Land Registry search if one includes all of the land to which the application relates, as is defined by the instructions in the application form.

(14) I can confirm that the Consortium has received written advice from counsel in regards to the arguments set forth in the Consortium's pre-action letter and the points in paragraphs 8 through 13 of this letter.

Kind regards,

Daniel Fulton  
Director

[REDACTED]

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[REDACTED]

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[REDACTED]

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**From:** Stephen Reid  
**Sent:** 09 October 2020 15:28  
**To:** Daniel Fulton <[dgf@fewslane.co.uk](mailto:dgf@fewslane.co.uk)>  
**Subject:** FW: 95 Bannold Road, Waterbeach  
**Importance:** High

Dear Fews Lane Consortium Ltd

As I understand matters, it will be at least some weeks before this application will go to Planning Committee. In these circumstances may I invite you to consider agreeing an extension of time until close of business on Monday 19<sup>th</sup> October to respond to the attached letter although it would be my intention to respond earlier .

**Stephen Reid**  
Senior Planning Lawyer  
3C Shared Services – Legal Practice  
  
Telephone: 0781 7730893  
Email: [stephen.reid@3csharedservices.org](mailto:stephen.reid@3csharedservices.org)

3C Shared Services is a strategic partnership between Cambridge City Council, Huntingdonshire District Council and South Cambridgeshire District Council

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- We will endeavour to return telephone calls within 24hrs.
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- We will make sure our clients are aware of the Practice's complaints procedure.
- We will agree key deadlines/operational requirements with clients within 5 working days.
- We will regularly update our clients on progress (weekly unless no movement on a particular matter)

---

**From:** Daniel Fulton <[dgf@fewslane.co.uk](mailto:dgf@fewslane.co.uk)>  
**Sent:** 28 September 2020 07:45  
**To:** Stephen Reid <[Stephen.Reid@3csharedservices.org](mailto:Stephen.Reid@3csharedservices.org)>  
**Subject:** 95 Bannold Road, Waterbeach

Dear Mr Reid,

Please see the attached pre-action letter concerning the proposed development at 95 Bannold Road, Waterbeach.

Kind regards,

Daniel Fulton  
Director

Fews Lane Consortium Ltd  
The Elms  
Fews Lane  
Longstanton  
Cambridge  
CB24 3DP

tel. 01954 789237

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The Fews Lane Consortium Ltd is registered in England and Wales. Company No. 11688336

28 September 2020

South Cambridgeshire District Council  
FAO 3C Shared Services Legal Practice  
South Cambridgeshire Hall  
Cambourne Business Park  
Cambourne  
Cambridge CB23 6EA

Dear Sirs

**Judicial review pre-action protocol: 20/03370/OUT - 95 Bannold Road, Waterbeach**

- (1) The South Cambridgeshire District Council (the "**Council**") is the prospective defendant in a claim for judicial review. A copy of this letter has been sent to the Council by first class post at the address written above.
- (2) The prospective claimant is the Fews Lane Consortium Ltd (the "**Consortium**"), The Elms, Fews Lane, Longstanton, CB24 3DP. The Consortium is a community action group that represents the interests of local residents in issues of planning and development.
- (3) The prospective claim concerns the Council's decision to consider planning application 20/03370/OUT, which seeks outline planning permission with some matters reserved except for access for the demolition of the existing house and the erection of five dwellings at 95 Bannold Road, Waterbeach, Cambridge CB25 9LQ.
- (4) The prospective claimant considers the applicant to be an interested party. A copy of this letter has been sent to the applicant by first class post to Mr Sanders, 10 Reuben Road, Landbeach, Cambridge CB25 9FE.
- (5) The Council's consideration of planning application 20/03370/OUT is unlawful pursuant to section 327A of the Town and Country Planning Act 1990 (the "**1990 Act**") because the application does not comply with the requirements of article 7 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (the "**2015 Order**").
- (6) Section 327A of the 1990 Act provides that:
  - “(1) This section applies to any application in respect of which this Act or any provision made under it imposes a requirement as to—
    - (a) the form or manner in which the application must be made;
    - (b) the form or content of any document or other matter which accompanies the application.
  - (2) The local planning authority must not entertain such an application if it fails to comply with the requirement.”
- (7) Article 7 of the 2015 Order provides that (emphasis added):

- “(1) Subject to paragraphs (3) to (5), **an application for planning permission must—**
- (a) be made in writing to the local planning authority on a form published by the Secretary of State (or a form to substantially the same effect);
  - (b) **include the particulars specified or referred to in the form;**
  - (c) except where the application is made pursuant to section 73 (determination of applications to develop land without conditions previously attached) or section 73A(2)(c) (planning permission for development already carried out) of the 1990 Act or is an application of a kind referred to in article 20(1)(b) or (c), be accompanied, whether electronically or otherwise, by—
    - (i) **a plan which identifies the land to which the application relates;**
    - (ii) any other plans, drawings and information necessary to describe the development which is the subject of the application”.

- (8) The application form, published by the Ministry of Housing, Communities and Local Government, states that:

“The application site must be edged clearly with a red line on the location plan. It should include all land necessary to carry out the proposed development (e.g. land required for access to the site from a public highway, visibility splays (access around a road junction or access, which should be free from obstruction), landscaping, car parking and open areas around buildings).”

- (9) In the case of application 20/03370/OUT, the location plan does not identify all of the land to which the application relates as is required under article 7(1)(c)(i) of the 2015 Order, and the application does not include the particulars specified in the application form as is required under article 7(1)(b) of the 2015 Order. Accordingly, the application can not be entertained by the Council pursuant to the provisions of section 327A of the 1990 Act.

#### Interpretation of Article 7(1) of the 2015 Order

- (10) Article 7(1) of the 2015 Order provides that “an application for planning permission must— [...] be accompanied [...] by a plan which identifies the land to which the application relates”.
- (11) When the government department administering an act publishes official statements in regards to the act, those statements may be taken into account as a persuasive authority on the meanings of the act’s provisions. (*Oram (Inspector of Taxes) v Johnson* [1980] 2 All E.R. 1 at 6)
- (12) The application form, published by the Ministry of Housing, Communities and Local Government<sup>1</sup>, which is the government department responsible for administering the 1990 Act, provides that:

“The application site must be edged clearly with a red line on the location plan. It should include all land necessary to carry out the proposed development (e.g. land required for access to the site from a public highway, visibility splays (access around a road junction or access, which should be free from obstruction), landscaping, car parking and open areas around buildings).”

- (13) The meaning of a provision of an act may be elucidated by reference to contemporary statements indicating how the provisions were understood at the time they were enacted, particularly in esoteric areas of law where cases rarely come before the courts and there is a long established practice. (*Isle of Anglesey County Council v Welsh Ministers* [2009] EWCA Civ 94, [2009] 3 All E.R. 1110)

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<sup>1</sup> Prior to 8 January 2018, the Ministry of Housing, Communities and Local Government was referred to as the Ministry for Communities and Local Government.

- (14) At the time the 2015 Order was made, the planning application form instructions published by the Ministry of Communities and Local Government provided that:
- “The application site must be edged clearly with a red line on the location plan. It should include all land necessary to carry out the proposed development (e.g. land required for access to the site from a public highway, visibility splays (access around a road junction or access, which should be free from obstruction), landscaping, car parking and open areas around buildings).”
- (15) Pursuant to the principles of statutory interpretation employed by the courts in *Oram* and *Isle of Anglesey*, the statements contained in the official forms and instructions published by the Ministry of Housing, Communities and Local Government, both at the time the 2015 Order was made and subsequent to the time the 2015 Order was made, are both capable of being persuasive authorities as to the proper interpretation of the relevant provisions of article 7 of the 2015 Order.
- (16) Article 7 of the 2015 Order requires that applications for planning permission include “a plan which identifies the land to which the application relates” and also that applications for planning permission must “include the particulars specified or referred to in the form”. The particulars specified in the application form require that:
- “The application site must be edged clearly with a red line on the location plan. It should include all land necessary to carry out the proposed development (e.g. land required for access to the site from a public highway, visibility splays (access around a road junction or access, which should be free from obstruction), landscaping, car parking and open areas around buildings).”
- (17) It is acknowledged that not every planning application will require visibility splays. For example, if an application were submitted for a city centre development where no vehicular access to the site was possible, visibility splays would obviously not be required. However, the Consortium intends to submit that where an application creates a new vehicular access or proposes the intensified use of an existing vehicular access, the land necessary for visibility splays must be included within the area defined by the red line on the location plan.
- (18) The requirements of article 7 of the 2015 Order are statutory requirements, and neither local planning authorities nor the Secretary of State have the power to ignore the statutory requirements in any case. Any dispute as to whether the statutory requirements have been met is a question within the jurisdiction of the courts. This question can be contrasted with the question of whether visibility splays are necessary to make a proposed development or change of use acceptable in planning terms, which is a question of judgment purely within the purview of the decision maker, subject to the usual legal tests on unreasonableness.
- (19) The Council has previously obtained legal advice advancing the position that the land required to carry out a proposed development includes only the land that must undergo operational development or is subject to a change of use. No authorities have been provided in support of this position, and indeed, the Council’s position is at odds with the approved principles of statutory interpretation outlined above.
- (20) A visibility splay will not be maintained free of vegetation without some sort of intervention. This intervention can either take the form of regular and ongoing maintenance to remove vegetation or the installation of hardstanding such as asphalt or concrete, which would prevent the growth of vegetation.
- (21) The ongoing maintenance of land necessary to remove vegetation and maintain a functional visibility splay requires a positive planning condition to be attached to any permission granted, and a positive planning conditions may only be applied to land that is within the application site or within

the control of the applicant. In *Mouchell Superannuation Fund Trustees v Oxfordshire County Council* [1992] 1 P.L.R. 97 at 105, Glidewell LJ states that:

“a condition requiring the carrying out of works may validly be imposed only if the works are to be carried out on land either within the application site or on other land 'under the control of the applicant'. Thus, a condition purporting to require the carrying out of works on land neither within the application site nor within the control of the applicant is outside the powers of the Act”.

- (22) If the interpretation of article 7 as advanced in the Council's legal advice were to be accepted, it would be impossible to attach positive conditions requiring the maintenance of visibility splays in cases where the land in question did not require a change of use or operational development. This interpretation of article 7 would create the very kind of mischief that article 7 and the instructions in the application form were apparently designed to prevent.
- (23) In installation of paving such as asphalt or concrete to prevent the growth of visibility splays constitutes operation development under sections 55(1) and 55(2) of the 1990 Act unless all of the following criteria apply:
- 1) the work is being carried out within the boundaries of a “road”,
  - 2) the work is being carried out “by” a highway authority,
  - 3) the work constitutes the maintenance or improvement of the “road”, and
  - 4) if the work is not exclusively for maintenance, it does not or will not “have significant adverse effects on the environment”.
- (24) There may be many ways to achieve functional visibility splays for any given application, for example, by a positive condition, a Grampian condition, or through a planning obligation. However, the Consortium would intend to submit that the question of how best to achieve the functional visibility splay is a matter of planning judgment for the decision maker.
- (25) For a local planning authority to accept as valid and to proceed to consider a planning application that plainly fails to comply with the requirements of article 7 and the requirements stated in the application form, would in effect remove the option of the positive planning condition from the decision maker's choices. This effectively constitutes predetermination of the application, at least in regards to a positive condition for the maintenance of visibility splays, and where the issue of visibility splays goes to the root of the decision as to whether to grant planning permission, this predetermination may be sufficient for the court to decide to quash a planning permission granted in such circumstances.
- (26) The failure to properly identify the land to which the application relates is also extraordinarily prejudicial to the ability of statutory consultees and members of the public to give intelligent consideration and response to planning proposals during periods of consultations.
- (27) Officers of local highway authorities should be able to rely on the fact that application documents that have been validated by the local planning authority and published for consultation correctly depict the land to which the application relates by outlining that land in red on the location plan, as is required under article 7. Whilst in an ideal world, local highway authority officers might be well versed in the nuances of planning law, this is usually not the case, and both statutory consultees and members of the public rely on the validation opinion of the local planning authority to establish that the land to which the planning application relates has been correctly identified on the location plan in accordance with the relevant legal standards. A local planning authority that consults on an application with an invalid location plan not only violates section 327A of the 1990 Act, but also potentially renders the consultation on the application unlawful on grounds of procedural impropriety. (See *R v North and East Devon Health Authority ex p Coughlan* [1999] EWCA Civ 1871, [2001] Q.B. 213 at [112].)

Pre-action protocol

- (28) For these reasons, the Consortium will be seeking an order to prohibit the Council from considering planning application 20/03370/OUT, unless a decision to grant outline planning permission is issued by the Council, in which case a quashing order will be sought. The Consortium will also seek a declaration that the Council has erred in law and an order that the Council pays the Consortium's costs in the claim.
- (29) The Consortium may also decide to seek interim relief in the event that the Council proceeds with the unlawful consideration of the application. If interim relief is to be sought, the Consortium will endeavour, insofar as is possible, to give the Council 7 days notice before any such interim relief is sought from the court.
- (30) The Consortium would prefer to resolve this matter as quickly and efficiently as possible. To that end, the Consortium would ask the Council to inform the applicant as soon as possible that insufficient information has been submitted with the application and stating that a location plan should be submitted showing the land necessary for visibility splays included within the red line boundaries. Once such a plan is received, the Council could then proceed with the lawful consideration of the application.
- (31) The Consortium would be pleased to consider any form of alternate dispute resolution that might be proposed by the Council.
- (32) The Consortium intends to issue proceedings as an Aarhus Convention claim pursuant to Parts 45.41 – 45.45 of the Civil Procedure Rules because the claim challenges the legality of a decision of a body exercising a public function which is within the scope of Article 9(2) of the UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters agreed at Aarhus, Denmark on 25 June 1998 (the Aarhus Convention).
- (33) Although funding has not yet been arranged for the claim, the Consortium does not envisage that it will be necessary to propose any variation of the standard limits on recoverable costs as stated in Parts 45.43(2)(b) and 45.43(3) of the Civil Procedure Rules.
- (34) In the event that a claim does become necessary, a statement of the prospective claimant's financial resources and a statement of financial support received will be provided to the prospective defendant at the earliest opportunity and no later than the time the claim is issued.
- (35) The Consortium's address for the response and service of documents is: Few's Lane Consortium Ltd, The Elms, Few's Lane, Longstanton, Cambridge CB24 3DP. Please note that the Few's Lane Consortium Ltd does NOT accept service by email.
- (36) The Consortium would like to propose a reply date of 12 October 2020, which is 14 days from the date of this letter.

Kind regards



Daniel Fulton  
Director

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

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**From:** Stephen Reid  
**Sent:** 12 October 2020 14:49  
**To:** Daniel Fulton <dgf@fewslane.co.uk>  
**Subject:** FW: 95 Bannold Road, Waterbeach  
**Importance:** High

Dear Fews Lane Consortium Ltd

When I emailed you last Friday ,9<sup>th</sup> October I said:

“...As I understand matters, it will be at least some weeks before this application will go to Planning Committee. In these circumstances may I invite you to consider agreeing an extension of time until close of business on Monday 19<sup>th</sup> October to respond to the attached letter although it would be my intention to respond earlier ....”

I have prepared a draft response to the attached letter and that draft has been sent to my instructing officers but I am not necessarily expecting them to let me have final comments before close of play today but we will endeavour to send you the response as soon as possible .As I have already indicated that as I understand matters, it will be at least some weeks before this application will go to Planning Committee I would suggest that no further parties will suffer prejudice by a reply not being sent to you before close of play today.

**Stephen Reid**  
Senior Planning Lawyer  
3C Shared Services – Legal Practice  
  
Telephone: 0781 7730893  
Email: [stephen.reid@3csharedservices.org](mailto:stephen.reid@3csharedservices.org)

3C Shared Services is a strategic partnership between Cambridge City Council, Huntingdonshire District Council and South Cambridgeshire District Council

**3C Legal Practice – Our Commitment to our Clients:-**

- We will endeavour to return telephone calls within 24hrs.
- We will acknowledge correspondence (including Emails) within 2 working days of receipt.
- We will make sure our clients are aware of the Practice's complaints procedure.
- We will agree key deadlines/operational requirements with clients within 5 working days.
- We will regularly update our clients on progress (weekly unless no movement on a particular matter)

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**From:** Stephen Reid

**Sent:** 09 October 2020 15:28

**To:** Daniel Fulton <[dgf@fewslane.co.uk](mailto:dgf@fewslane.co.uk)>

**Subject:** FW: 95 Bannold Road, Waterbeach

**Importance:** High

Dear Fews Lane Consortium Ltd

As I understand matters, it will be at least some weeks before this application will go to Planning Committee. In these circumstances may I invite you to consider agreeing an extension of time until close of business on Monday 19<sup>th</sup> October to respond to the attached letter although it would be my intention to respond earlier .

**Stephen Reid**

Senior Planning Lawyer

3C Shared Services – Legal Practice



Telephone: 0781 7730893

Email: [stephen.reid@3csharedservices.org](mailto:stephen.reid@3csharedservices.org)

3C Shared Services is a strategic partnership between Cambridge City Council, Huntingdonshire District Council and South Cambridgeshire District Council

**3C Legal Practice – Our Commitment to our Clients:-**

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- We will agree key deadlines/operational requirements with clients within 5 working days.
- We will regularly update our clients on progress (weekly unless no movement on a particular matter)

---

**From:** Daniel Fulton <[dgf@fewslane.co.uk](mailto:dgf@fewslane.co.uk)>

**Sent:** 28 September 2020 07:45

**To:** Stephen Reid <[Stephen.Reid@3csharedservices.org](mailto:Stephen.Reid@3csharedservices.org)>

**Subject:** 95 Bannold Road, Waterbeach

Dear Mr Reid,

Please see the attached pre-action letter concerning the proposed development at 95 Bannold Road, Waterbeach.

Kind regards,

Daniel Fulton

Director

The Elms  
Fews Lane  
Longstanton  
Cambridge  
CB24 3DP

tel. 01954 789237

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The Fews Lane Consortium Ltd is registered in England and Wales. Company No. 11688336

8 September 2020

South Cambridgeshire District Council  
FAO 3C Shared Services Legal Practice  
South Cambridgeshire Hall  
Cambourne Business Park  
Cambourne  
Cambridge CB23 6EA

Dear Sirs

- (1) Thank you for your letter dated 4 September 2020 clarifying the Council's position on a number of key issues.
- (2) In light of these clarifications, the Consortium would like to call the Council's attention to the following relevant provisions of law.

#### Legal Framework

- (3) Section 55(1) of the Town and Country Planning Act 1990 (the "**1990 Act**") provides that:

"Subject to the following provisions of this section, in this Act, except where the context otherwise requires, 'development,' means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land."

- (4) Section 336(1) of the 1990 Act provides that:

"'engineering operations' includes the formation or laying out of means of access to highways".

- (5) Section 55(2) of the 1990 Act provides that (emphasis added):

"The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land — [...]

(b) the carrying out on land **within the boundaries of a road by a highway authority** of any works required for the maintenance or improvement of the road but, in the case of any such works which are not exclusively for the maintenance of the road, not including any works which may have significant adverse effects on the environment"

- (6) Section 65 of the 1990 Act provides that:

"(1) A development order may make provision requiring—

(a) notice to be given of any application for planning permission or permission in principle, and

(b) any applicant for such permission to issue a certificate as to the interests in the land to which the application relates or the purpose for which it is used, and provide for publicising such applications and for the form, content and service of such notices and certificates.

(2) Provision shall be made by a development order for the purpose of securing that, in the case of any application for planning permission, any person (other than the applicant) who on such date as may be prescribed by the order is an owner of the land to which the application relates, or an agricultural tenant of that land, is given notice of the application in such manner as may be required by the order.

(3) A development order may require an applicant for planning permission or permission in principle to certify, in such form as may be prescribed by the order, or to provide evidence, that any requirements of the order have been satisfied.

(3A) In subsections (1) and (3) references to any application for planning permission or any applicant for such permission include references to any application for approval under section 61L(2) or any applicant for such approval.

(4) A development order making any provision by virtue of this section may make different provision for different cases or different classes of development.

(5) A local planning authority shall not entertain an application for planning permission or permission in principle unless any requirements imposed by virtue of this section have been satisfied."

(7) Section 327A of the 1990 Act provides that:

"(1) This section applies to any application in respect of which this Act or any provision made under it imposes a requirement as to—

- (a) the form or manner in which the application must be made;
- (b) the form or content of any document or other matter which accompanies the application.

(2) The local planning authority must not entertain such an application if it fails to comply with the requirement."

(8) Article 7 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (the "**2015 Order**") provides that (emphasis added):

"(1) Subject to paragraphs (3) to (5), **an application for planning permission must—**

(a) be made in writing to the local planning authority on a form published by the Secretary of State (or a form to substantially the same effect);

(b) **include the particulars specified or referred to in the form;**

(c) except where the application is made pursuant to section 73 (determination of applications to develop land without conditions previously attached) or section 73A(2)(c) (planning permission for development already carried out) of the 1990 Act or is an application of a kind referred to in article 20(1)(b) or (c), be accompanied, whether electronically or otherwise, by—

(i) **a plan which identifies the land to which the application relates;**

(ii) any other plans, drawings and information necessary to describe the development which is the subject of the application".

(9) Article 13(1) of the 2015 Order provides that (emphasis added):

"Except where paragraph (2) applies, an applicant for planning permission **must give requisite notice** of the application to any person (other than the applicant) who on the prescribed date is an owner of **the land to which the application relates**, or a tenant—

(a) by serving the notice on every such person whose name and address is known to the applicant; and

(b) where the applicant has taken reasonable steps to ascertain the names and addresses of every such person, but has been unable to do so, by publication of the notice after the prescribed date in a newspaper circulating in the locality in which the land to which the application relates is situated."

(10) Article 14 of the 2015 Order provides that:

“(1) Where an application for planning permission is made, the applicant must certify, in a form published by the Secretary of State or in a form substantially to the same effect, that the relevant requirements of article 13 have been satisfied.”

(11) Delegated legislation made under an act is capable of being a persuasive authority on the meaning of the act's provisions. (*Hales v Bolton Leathers Ltd* [1951] A.C. 531, per Lord Simonds at 539, per Lord Normand at 544, and per Lord Oaksey at 548)

(12) When the government department administering an act publishes official statements in regards to the act, those statements may be taken into account as a persuasive authority on the meanings of the act's provisions. (*Oram (Inspector of Taxes) v Johnson* [1980] 2 All E.R. 1 at 6)

(13) The meaning of a provision of an act may be elucidated by reference to contemporary statements indicating how the provisions were understood at the time they were enacted, particularly in esoteric areas of law where cases rarely come before the courts and there is a long established practice. (*Isle of Anglesey County Council v Welsh Ministers* [2009] EWCA Civ 94, [2009] 3 All E.R. 1110)

(14) A breach of a provision of delegated legislation is no different than a breach of the primary act itself. (*National Telephone Company v Baker* [1892 N. 2.], [1893] 2 Ch. 186 at 203)

#### Factual background

(15) Four forms of the certificate referred to in article 14(1) have been published by the Secretary of State.

(16) These forms are referred to as ownership certificates A, B, C, and D.

(17) The form of the certificate referred to as ownership certificate A states:

“[I certify]/[The applicant certifies] that on the day 21 days before the date of this application nobody except [myself]/[the applicant] was the owner of any part of the land or building to which the application relates, and that none of the land to which the application relates is, or is part of, an agricultural holding.”

(18) The form of the certificate referred to as ownership certificate B states:

“[I certify]/[The applicant certifies] that [I have]/[the applicant has] given the requisite notice to everyone else (as listed below) who, on the day 21 days before the date of this application, was the owner and/or agricultural tenant of any part of the land or building to which this application relates.”

(19) The form of the certificate referred to as ownership certificate C states:

“[I certify]/[The applicant certifies] that:

- Neither Certificate A or B can be issued for this application
- All reasonable steps have been taken to find out the names and addresses of the other owners and/or agricultural tenants of the land or building, or of a part of it, but [I have]/[the applicant has] been unable to do so.”

(20) The form of the certificate referred to as ownership certificate D states:

“[I certify]/[The applicant certifies] that:

- Certificate A cannot be issued for this application
- All reasonable steps have been taken to find out the names and addresses of everyone else who, on the day 21 days before the date of this application, was the owner and/or agricultural tenant of any part of the land to which this application relates, but [I have]/[the applicant has] been unable to do so.”

(21) The application form provides that:

“The application site must be edged clearly with a red line on the location plan. It should include all land necessary to carry out the proposed development (e.g. land required for access to the site from a public highway, visibility splays (access around a road junction or access, which should be free from obstruction), landscaping, car parking and open areas around buildings).”

### Ownership certificates

(22) Article 7(1)(c)(i) of the 2015 Order provides that a plan that identifies “the land to which the application relates” must be included with applications for planning permission. Article 13(1) of the 2015 Order requires that an applicant for planning permission must notify the owners “the land to which the application relates”. Article 14 of the 2015 Order provides that applicants must certify, in a form published by the Secretary of State or in a form substantially to the same effect that the relevant requirements of article 13 have been satisfied. The forms published by the Secretary of State, referred to as ownership certificates, also refer to the land to which the application relates.

(23) The meaning of the phrase “the land to which the application relates” is a question of statutory interpretation. It is not a matter of planning judgment, as the Council has sometimes asserted.

(24) When the government department administering an act publishes official statements in regards to the act, those statements may be taken into account as a persuasive authority on the meanings of the act’s provisions. (*Oram (Inspector of Taxes) v Johnson* [1980] 2 All E.R. 1 at 6)

(25) The application instructions published by the Ministry of Housing, Communities and Local Government stipulate that the land to which an application relates includes “all land necessary to carry out the proposed development”.

(26) “All land necessary to carry out the proposed development” is not the same as any land proposed to undergo operational development or a material change of use, which is how the Council has misinterpreted the provisions of the 2015 Order.

### Position of red line on location plan

(27) Moving the red line shown on the location plan does not change the land to the application relates.

(28) However, moving the red line shown on the location plan such that it excludes land to which the application relates can invalidate the application if the application would no longer comply with the provisions of article 7(1)(b) and article 7(1)(c)(ii) of the 2015 Order.

(29) Whilst moving the position red line shown on the location plan An applicant can not change the land to which a planning application relates by simply moving the position of the red line shown on the location plan, and likewise, moving the red line shown on the location plan does not change the land to which the ownership certificate pertains.

Land to which application relates vs. land proposed to undergo operational development/change of use

- (30) The application form instructions published by the Ministry of Housing, Communities and Local Government clarify that the land to which a planning application relates is the land necessary to carry out the proposed development, not the land proposed to undergo operational development or a material change of use, as the Council has posited.
- (31) Again, when the government department administering an act publishes official statements in regards to the act, those statements may be taken into account as a persuasive authority on the meanings of the act's provisions. (*Oram (Inspector of Taxes) v Johnson* [1980] 2 All E.R. 1 at 6)
- (32) Even if the court were not to agree with our approach to the interpretation of the phrase "land to which the application relates", the Council's position that land owned by the local highway authority can be excluded from land to which an application relates is doomed to fail on the basis of section 55 of the 1990 Act.
- (33) Under the provisions of subsections 55(1) and 55(2) of the 1990 Act, any building, engineering, or other operations carried out in, on, over, or under land will be considered to be development unless all of the following apply:
- 1) the work is being carried out within the boundaries of a "road",
  - 2) the work is being carried out "by" a highway authority,
  - 3) the work constitutes the maintenance or improvement of the "road", and
  - 4) if the work is not exclusively for maintenance, it does not or will not "have significant adverse effects on the environment".
- (34) Accordingly, it appears to be immaterial whether the land in question is:
- 1) owned by a highway authority,
  - 2) within a highway,
  - 3) within a public highway,
  - 4) within a private highway, or
  - 5) within an adopted highway.
- (35) The local highway authority for the district of South Cambridgeshire is the Cambridgeshire County Council.
- (36) To the best of the Consortium's knowledge, the Cambridgeshire County Council does not offer a service whereby it undertakes building, engineering, or other operations to carry out works associated with private developments.

Ramifications for planning application 20/02453/S73 (Fews Lane, Longstanton)

- (37) No location plan has been submitted for this application. Accordingly, the application relies on the location plan comprised within the application for the extant planning permission (S/0277/19/FL). That location plan fails to identify the land to which the application relates as is required under article 7(1)(c)(i) of the 2015 Order. Application 20/02453/S73 is therefore invalid and can not be determined pursuant to sections 65 and 327A of the 1990 Act.

Ramifications for planning application 20/03370/OUT (95 Bannold Road, Waterbeach)

(38) The location plan fails to identify the land to which the application relates as is required under article 7(1)(c)(i) of the 2015 Order. Application 20/03370/OUT is therefore invalid and can not be determined pursuant to sections 65 and 327A of the 1990 Act.

Update concerning proposed development at 17 Mill Lane, Arrington

(39) The Consortium has decided not to pursue a prohibiting order in regards to this section 73 application. The reason for this is because we feel that it is likely that the Council will make additional errors of law when determining the application and that the court will be more likely to grant relief at that time. The Consortium will be providing further representations on this application in due course, but you may consider the Consortium's pre-action letter in regards to this application to be withdrawn.

(40) I hope this letter will be helpful in explaining the Consortium's positions on the issues discussed. If I can provide further clarification, please do let me know.

Kind regards



Daniel Fulton  
Director

[REDACTED]

---

[REDACTED]

---

**From:** Stephen Reid  
**Sent:** 13 October 2020 13:54  
**To:** Daniel Fulton <dgf@fewslane.co.uk>  
**Subject:** FW: bannold road waterbeach  
**Importance:** High

Dear Fews Lane Consortium Ltd

Please see attached.

I am in the office tomorrow and will arrange for a copy to be posted to you.

**Stephen Reid**  
Senior Planning Lawyer  
3C Shared Services – Legal Practice



Telephone: 0781 7730893  
Email: [stephen.reid@3csharedservices.org](mailto:stephen.reid@3csharedservices.org)

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Fews Lane Consortium Ltd  
The Elms  
Fews Lane  
Longstanton  
Cambridge  
CB24 3DP

**3C Shared Services - Legal Practice**  
**acting for South Cambridgeshire District Council**  
Please send all correspondence to:  
South Cambridgeshire Hall, Cambourne Business Park  
Cambourne, Cambridge, CB23 6EA  
DX 729500, Cambridge 15  
Main Switchboard: 01223 457000  
Head of Legal Practice: Tom Lewis

Practice Ref: SR  
Your Ref:

Date: 13 October 2020

Dear Sirs

**Re: Judicial Review Pre-action Protocol: 20/03370/OUT -95 Bannold Road Waterbeach**

We write in relation to your pre-action protocol letter dated 28<sup>th</sup> September 2020 in which you indicate your intention to challenge by way of judicial review the Council's decision to grant planning permission under ref 20/03370/OUT

**The Prospective Claimant**

1 The Prospective Claimant would be Fews Lane Consortium Ltd.

**The Prospective Defendant**

2 The Prospective Defendant is South Cambridgeshire District Council.

Correspondence should be addressed to 3C Shared Services – The Legal Practice, South Cambridgeshire Hall, Cambourne Business Park, Cambourne, Cambridge, CB23 6EA.

The Solicitor dealing with the conduct of this matter is Stephen Reid.

**Response to the claim**

3 Your prospective claim concerns the Council's decision to consider planning application 20/03370/OUT, (the "Application"). which seeks outline planning permission for the demolition of the existing house and the erection of five dwellings at 95 Bannold Road, Waterbeach, Cambridge CB25 9LQ with some matters reserved except for access.

4.1 To my mind the key difference between the parties is the importance you place on your suggestion that a planning application will be invalid if the red line location plan omits to include relevant visibility splays which are part of the existing adopted highway.

4.2 You recognize that there are no reported cases to support your submission in such regard but what you have said in a letter dated 7<sup>th</sup> October is as follows:

"...However, if necessary, we are prepared to argue that such an application would be unlawful on the basis that the inclusion of the relevant land within the depicted boundaries of the land to which the application relates is necessary in order to allow for a positive planning condition to be

lawfully attached to any permission granted. Should we need to argue this point, we will rely upon one or more of the following authorities: *Mouchell Superannuation Fund Trustees v Oxfordshire County Council* [1992] 1 P.L.R. 97, *Davenport v London Borough of Hammersmith and Fulham* [1999] (CO/4485/98), *British Railways Board v Secretary of State for the Environment* [1994] 1 EGLR 197, and/or *Grampian Regional Council v City of Aberdeen District Council* 1984 SC (HL) 58....”

4.3 It is the Council’s position that a positive planning condition is not required in relation to relevant visibility splays which are part of the existing adopted highway and that none of the cases you have referred to address this point.

5 Para 5 of your letter

5.1 In paragraph 5 of your letter you set out the proposition that “..the Council’s consideration of planning application 20/03370/OUT is unlawful pursuant to section 327A of the Town and Country Planning Act 1990 (the “1990 Act”) because the application does not comply with the requirements of article 7 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (the “2015 Order”)....”

5.2 This proposition is not accepted by the Council.

6 Para 6 of your letter

6.1 In your para 6 of your letter you quote Section 327A of the 1990 Act

6.2 The Council does not accept that by considering the application (and the location plan) in its current form there would be a breach of Section 327A of the 1990 Act

7 Para 7 of your letter

7.1 You then in para 7 of your letter quote Article 7 of the 2015 Order

7.2 It is the Council’s position that the red line on the location plan identifies the land to which the application relates in so far as the red line abuts the existing adopted highway

7.3 Further, it is the Council’s position that the plan is not deficient because the red line does not extend to show visibility splays within the existing adopted highway

8 Para 8 of your letter

Noted

9 Para 9 of your letter

9.1 You suggest in your para 9 that:

”...In the case of application 20/03370/OUT, the location plan does not identify all of the land to which the application relates as is required under article 7(1)(c)(i) of the 2015 Order, and the application does not include the particulars specified in the application form as is required under article 7(1)(b) of the 2015 Order. Accordingly, the application can not be entertained by the Council pursuant to the provisions of section 327A of the 1990 Act. Interpretation of Article 7(1) of the 2015 Order...”

9.2 This proposition is not accepted by the Council

10 Para 10 of your letter

It is the Council’s position that in this case the application site has been edged clearly with a red line on the location plan and it includes all land to which the application relates including land required for access to the site from a public highway and that the red line is not defective because it does not show within the red line the land for relevant visibility splays which are already within the existing adopted highway.

11 Para 11 of your letter

It is not thought necessary to comment on your para 11.

12 Para 12 of your letter

12.1 Here you state that “..the application form, published by the Ministry of Housing, Communities and Local Government provides that:

“The application site must be edged clearly with a red line on the location plan. It should include all land necessary to carry out the proposed development (e.g. land required for access to the site from a public highway, visibility splays (access around a road junction or access, which should be free from obstruction), landscaping, car parking and open areas around buildings).”

12.2 It is the Council’s position that in this case the application site has been edged clearly with a red line on the location plan and that it includes all land necessary to carry out the proposed development (e.g. land required for access to the site from a public highway, and also the land for all relevant visibility splays which are not within the existing adopted highway.

13 Para 13 of your letter

It is not thought necessary to comment on your para 13.

14 Para14 of your letter

14.1 Here you say that at the time the 2015 Order was made, the planning application form instructions published by the Ministry of Communities and Local Government provided that:

“The application site must be edged clearly with a red line on the location plan. It should include all land necessary to carry out the proposed development (e.g. land required for access to the site from a public highway, visibility splays (access around a road junction or access, which should be free from obstruction), landscaping, car parking and open areas around buildings).”

14.2 This however is much the same as covered by your paras numbered 8 and 12 so it is not thought necessary to make any additional comment on your para 14.

15 Para 15 of your letter

I am not sure as to the point you are seeking to raise here.

16 Para 16 of your letter

Para 16 of your letter is much the same as covered by your paras numbered 8,12 and 14 so it is not thought necessary to make any additional comment on your para 16.

17 Para 17 of your letter

17.1 Here you acknowledge that not every planning application will require visibility splays and you give as example, an application submitted for a city centre development where no vehicular access to the site was possible, and where you recognize that visibility splays would obviously not be required.

17.2 However, you then continue

“...the Consortium intends to submit that where an application creates a new vehicular access or proposes the intensified use of an existing vehicular access, the land necessary for visibility splays must be included within the area defined by the red line on the location plan...”

17.3 If that proposition is correct then literally thousands of planning applications up and down the country should be re-visited and be held to be invalid because they do not show within the red line relevant visibility splays which are within the existing adopted highway. The same point should likewise apply to a whole host of current appeals where again the applications which are the subject of those appeals do not show within the red line on the location plan relevant visibility

splays which are within the existing adopted highway .The reference to appeal cases is also pertinent in the context of your comments under your para 18 where, in effect ,you suggest the Secretary of State does not have the power to ignore the statutory requirements in any case.

18 Para 18 of your letter

18.1 In your para 18 you say “.. the requirements of article 7 of the 2015 Order are statutory requirements, and neither local planning authorities nor the Secretary of State have the power to ignore the statutory requirements in any case. Any dispute as to whether the statutory requirements have been met is a question within the jurisdiction of the courts. This question can be contrasted with the question of whether visibility splays are necessary to make a proposed development or change of use acceptable in planning terms, which is a question of judgment purely within the purview of the decision maker, subject to the usual legal tests on unreasonableness....”

18.2 The Council does not accept that in this case there has been any breach of the statutory requirements of article 7 of the 2015 Order

19 Para 19 of your letter

19.1 Here you acknowledge that the Council has previously obtained legal advice. You state that no authorities have been provided in support of the Council's position but you omit to acknowledge that the full written advice of Mr Streeten was shared with you and/or that you take issue with the following numbered paragraphs of that Advice (see section 35 of this letter as below)

Paras numbered 7,8,12,14 and 18

19.2 Rather you argue that the Council's position is at odds with the approved principles of statutory interpretation as outlined earlier in your letter.

19.3 The Council does not accept that the position it supports is at odds with the approved principles of statutory interpretation as outlined earlier in your letter

20 Para 20 of your letter

Here you suggest that “a visibility splay will not be maintained free of vegetation without some sort of intervention...” and you suggest that this “..intervention can either take the form of regular and ongoing maintenance to remove vegetation or the installation of hardstanding such as asphalt or concrete, which would prevent the growth of vegetation..” which then leads on to your comments under your para 21

21 Para 21 of your letter

21.1 Here you suggest that “...the ongoing maintenance of land necessary to remove vegetation and maintain a functional visibility splay requires a positive planning condition to be attached to any permission granted...” and you continue that “... a positive planning conditions may only be applied to land that is within the application site or within the control of the applicant...”

21.2 The Council does not accept that a positive planning condition is required in relation to relevant visibility splays which are wholly within the existing adopted highway

21.3 The Council does not accept that the decision in *Mouchell Superannuation Fund Trustees v Oxfordshire County Council* supports a proposition that a positive condition is required for visibility splays which are wholly within the existing adopted highway

22 Para 22 of your letter

22.1 It is not accepted that the Council's interpretation of Article 7 would “...create the very kind of mischief..”that you suggest “article 7 and the instructions in the application form were apparently designed to prevent...”

22.2 If that were the case then I would invite to explain why the Council's interpretation is consistent not only with other LPAs but also countless decisions of Planning Inspectors in countless Appeal decisions

22.3 You also suggest that

"...If the interpretation of article 7 as advanced in the Council's legal advice were to be accepted, it would be impossible to attach positive conditions requiring the maintenance of visibility splays in cases where the land in question did not require a change of use or operational development..." but I would ask you to provide a single example of where a condition has been imposed in relation to relevant visibility splays within the existing adopted highway.

23 Para 23 of your letter

Your comments under para 23 are thought to be misguided and are not supported by the highway authority

24 Para 24 of your letter

You comment that

"...there may be many ways to achieve functional visibility splays for any given application, for example, by a positive condition, a Grampian condition, or through a planning obligation..."

but you omit to also include the highway authority using their powers to achieve functional visibility splays where such are within the existing adopted highway and I do not think it unreasonable to ask why the highway authority are not more concerned about the point at issue if you are right that their powers are not sufficient in relation to visibility splays within the existing adopted highway.

25 Para 25 of your letter

25.1 Here you suggest that:

"...For a local planning authority to accept as valid and to proceed to consider a planning application that plainly fails to comply with the requirements of article 7 and the requirements stated in the application form, would in effect remove the option of the positive planning condition from the decision maker's choices. This effectively constitutes predetermination of the application, at least in regards to a positive condition for the maintenance of visibility splays, and where the issue of visibility splays goes to the root of the decision as to whether to grant planning permission, this predetermination may be sufficient for the court to decide to quash a planning permission granted in such circumstances...."

25.2 I would submit your reasoning is quite simply flawed

26 Para 26 of your letter

26.1 Here you suggest that:

"...The failure to properly identify the land to which the application relates is also extraordinarily prejudicial to the ability of statutory consultees and members of the public to give intelligent consideration and response to planning proposals during periods of consultations...."

26.2 You recognize that there are no reported cases which support your proposition that a planning application will be invalid if the red line location plan omits to include relevant visibility splays which are part of the existing adopted highway.

27 Para 27 of your letter

27.1 The highway authority does not share your view that a planning application is invalid if the redline on the location plan does not include visibility splays which are within the existing adopted highway

27.2 It is the Council's case that there has not been any procedural impropriety in relation to the consultation arising from the red line shown on the location plan.

28 Para 28 of your letter

Noted, but the Council will strenuously resist any order to prohibit the Council from considering the planning application or any application seeking to quash a planning permission resulting from the application.

29 Para 29 of your letter.

Noted, but again the Council will seek to resist any application for interim relief if such an avenue were pursued

30 Para 30 of your letter

The Council does not accept that insufficient information in relation to the red line has been submitted and accordingly that it has no intention of advising the applicant to that effect

31 Para 31 of your letter

The Council would likewise be willing to consider any form of alternative dispute resolution if it is felt by the Consortium that matters are capable of resolution but the Council is currently of the view that the Consortium is wholly misguided in the approach set out in the pre-action protocol letter

32 Para 32 of your letter

Noted

34 Para 34 of your letter

Noted

[35. May I also remind you of a number of paragraphs in the Advice from Charles Streeten of 20 July 2020 which Advice was copied to you in full and where a number of paragraphs from that Advice are set out below for ease of reference as it is believed they have not been addressed in the pre-action letter dated 28<sup>th</sup> September

35.1 Paragraph numbered 7

"It should, however, be noted that notwithstanding the apparently strict wording of section 327A, the High Court has made clear that a breach of the requirements in the 2015 Order does not, necessarily, mean that a grant of planning permission will be quashed (see *R (Bishop) v Westminster CC* [2017] EWHC 3102 (Admin) at para. 23). Rather, the court retains its discretion regarding whether or not to quash a planning permission granted in breach of the 2015 Order. Indeed, in a case where it is 'highly likely' that the outcome would not have been substantially different absent the error, the court is under a duty pursuant to section 31 of the Senior Courts Act 1981 (as amended) to refuse both permission for judicial review and relief."

35.2 Paragraph numbered 8

"Thus, whilst local planning authorities should always seek to ensure that the requirements of the 2015 Order are properly followed, it may be that an inadvertent failure to follow the procedural requirements set down is not fatal to a grant of planning permission."

35.3 Paragraph numbered 10

"The section of the application form to which the Consortium refers reads:

"The application site must be edged clearly with a red line on the location plan. It should include all land necessary to carry out the proposed development (e.g. land required for access to the site from a public highway, visibility splays (access around a road junction or access, which should be free from obstruction), landscaping, car parking and open areas around buildings)."

35.4 Paragraph numbered 11

“This is also reflected in the Government’s Planning Practice Guidance (“PPG”) which says at reference ID 14-024-20140306:

“The application site should be edged clearly with a red line on the location plan. It should include all land necessary to carry out the proposed development (eg land required for access to the site from a public highway, visibility splays, landscaping, car parking and open areas around buildings). A blue line should be drawn around any other land owned by the applicant, close to or adjoining the application site.”

35.5 Paragraph numbered 12

“In interpreting these words it is important not to lose sight of their context. They have not been drafted as would a policy, still less with the care given to the drafting of legislation. In both cases are intended as practical guidance to those completing an application for planning permission. They should therefore be read with a considerable degree of common sense and not subjected to exegetical legal analysis. If authority is required for this proposition, it is to be found in *R (Solo Retail Limited) v Torridge DC* [2019] EWHC 489 (Admin) at para. 33.”

35.6 Paragraph numbered 14

“The issue, therefore, is whether planning permission for the Development can be granted, notwithstanding that an area included within the visibility splay is on adopted highway outside the red line boundary. My view is that it can:

- a. Firstly, the text of both the application form and the guidance refers to “all land necessary to carry out the proposed development”. In my view, the word development is of central importance. If land is not being developed, it does not need to be included within the red line boundary. Thus, although land that is not adopted highway such that its use needs to be changed to be used as a visibility splay, it may need to be shown within the red line boundary, where the land used for the visibility splay is already adopted highway, and no operational development is required, it does not need to be included within the red line.
- b. Secondly, an over literal reading of the application form and PPG would create absurd results. As those instructing rightly point out, both refer to car parking and open areas around buildings. However, if the development proposed does not include any car parking it plainly would not be invalid if the red line on the location plan did not show land for car parking. Similarly, if the application was such that the footprint of a proposed building meant there were to be no open areas around it, the effect of the application form is clearly not intended to be that the application is invalid because it fails to show any open areas. On the contrary, as both the form and the PPG make clear, the references given are mere examples, and are not intended to be prescriptive or exhaustive. Ultimately, what land is necessary to carry out the proposed development will be a matter of judgement for the local planning authority to determine on the facts of any given case.

35.7 Paragraph numbered 16

“Applying these principles, in my opinion:

Provided that all of the relevant land upon which works to create the access for the Development fall within the red line boundary, the Council would be entitled to conclude that the land necessary to carry out the proposed development does not include land falling within the visibility splays but outwith the red line boundary, which is adopted highway.”

35.8 Paragraph numbered 18

“Moreover, even if I am wrong about that, I am of the view that the prospects of bringing a successful claim for judicial review would be low. I cannot see what prejudice could be said to result from not including adopted highway land forming part of the visibility splay within the red line boundary for the development and, in any event, a claim for judicial review would be likely to be refused permission and/or relief pursuant to section 31 of the Senior Courts Act 1981 on the basis that it is

highly likely the outcome would not have been substantially different absent any error of law identified.”

Yours faithfully

A handwritten signature in black ink, appearing to read 'Stephen Reid', with a horizontal line underneath.

**Stephen Reid**  
Senior Planning Lawyer  
***acting for South Cambridgeshire District Council***

Tel: 01223 457094 / 07817 730893  
Email: [stephen.reid@3csharedservices.org](mailto:stephen.reid@3csharedservices.org)

[REDACTED]

---

[REDACTED]

---

**From:** Daniel Fulton <dgf@fewslane.co.uk>  
**Sent:** 26 October 2020 08:15  
**To:** Stephen Reid <Stephen.Reid@3csharedservices.org>  
**Subject:** 20/02453/S73 (The Retreat, Fews Lane, Longstanton) & 20/03370/OUT (95 Bannold Road, Waterbeach)

Dear Mr Reid,

I am in the process of drafting further pre-action correspondence in regards to application 20/02453/S73 (The Retreat, Fews Lane, Longstanton), which will also apply, to some extent, to the issues concerning application 20/03370/OUT at 95 Bannold Road, Waterbeach.

I'm waiting to hear back from counsel on a couple of points prior to finalising the letter, but I should have it to you sometime tomorrow.

Kind regards,

Daniel Fulton  
Director

Fews Lane Consortium Ltd  
The Elms  
Fews Lane  
Longstanton  
Cambridge  
CB24 3DP

tel. 01954 789237

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The Fews Lane Consortium Ltd is registered in England and Wales. Company No. 11688336

[REDACTED]

---

[REDACTED]

---

**From:** Stephen Reid  
**Sent:** 26 October 2020 08:23  
**To:** Daniel Fulton <dgf@fewslane.co.uk>  
**Subject:** FW: bannold road waterbeach  
**Importance:** High

Dear Fews Lane Consortium Ltd

1. I am conscious that you have emailed me this morning and said you are "...in the process of drafting further pre-action correspondence in regards to application 20/02453/S73 (The Retreat, Fews Lane, Longstanton), which will also apply, to some extent, to the issues concerning application 20/03370/OUT at 95 Bannold Road, Waterbeach.

I'm waiting to hear back from counsel on a couple of points prior to finalising the letter, but I should have it to you sometime tomorrow...."

2. I emailed you on 20<sup>th</sup> October and said:

"....Please confirm you have received in the post the original of the attached letter...."

I await your response.

**Stephen Reid**  
Senior Planning Lawyer  
3C Shared Services – Legal Practice  
  
Telephone: 0781 7730893  
Email: [stephen.reid@3csharedservices.org](mailto:stephen.reid@3csharedservices.org)

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- We will regularly update our clients on progress (weekly unless no movement on a particular matter)

---

**From:** Stephen Reid  
**Sent:** 20 October 2020 09:29  
**To:** Daniel Fulton <[dgf@fewslane.co.uk](mailto:dgf@fewslane.co.uk)>  
**Subject:** FW: bannold road waterbeach  
**Importance:** High

Dear Fews Lane consortium Ltd

Please confirm you have received in the post the original of the attached letter.

**Stephen Reid**  
Senior Planning Lawyer  
3C Shared Services – Legal Practice  
  
Telephone: 0781 7730893  
Email: [stephen.reid@3csharedservices.org](mailto:stephen.reid@3csharedservices.org)

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---

**From:** Stephen Reid  
**Sent:** 13 October 2020 13:54  
**To:** Daniel Fulton <[dgf@fewslane.co.uk](mailto:dgf@fewslane.co.uk)>  
**Subject:** FW: bannold road waterbeach  
**Importance:** High

Dear Fews Lane Consortium Ltd

Please see attached.

I am in the office tomorrow and will arrange for a copy to be posted to you.

**Stephen Reid**  
Senior Planning Lawyer  
3C Shared Services – Legal Practice  
  
Telephone: 0781 7730893

Email: [stephen.reid@3csharedservices.org](mailto:stephen.reid@3csharedservices.org)

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Fews Lane Consortium Ltd  
The Elms  
Fews Lane  
Longstanton  
Cambridge  
CB24 3DP

**3C Shared Services - Legal Practice**  
**acting for South Cambridgeshire District Council**  
Please send all correspondence to:  
South Cambridgeshire Hall, Cambourne Business Park  
Cambourne, Cambridge, CB23 6EA  
DX 729500, Cambridge 15  
Main Switchboard: 01223 457000  
Head of Legal Practice: Tom Lewis

Practice Ref: SR  
Your Ref:

Date: 13 October 2020

Dear Sirs

**Re: Judicial Review Pre-action Protocol: 20/03370/OUT -95 Bannold Road Waterbeach**

We write in relation to your pre-action protocol letter dated 28<sup>th</sup> September 2020 in which you indicate your intention to challenge by way of judicial review the Council's decision to grant planning permission under ref 20/03370/OUT

**The Prospective Claimant**

1 The Prospective Claimant would be Fews Lane Consortium Ltd.

**The Prospective Defendant**

2 The Prospective Defendant is South Cambridgeshire District Council.

Correspondence should be addressed to 3C Shared Services – The Legal Practice, South Cambridgeshire Hall, Cambourne Business Park, Cambourne, Cambridge, CB23 6EA.

The Solicitor dealing with the conduct of this matter is Stephen Reid.

**Response to the claim**

3 Your prospective claim concerns the Council's decision to consider planning application 20/03370/OUT, (the "Application"). which seeks outline planning permission for the demolition of the existing house and the erection of five dwellings at 95 Bannold Road, Waterbeach, Cambridge CB25 9LQ with some matters reserved except for access.

4.1 To my mind the key difference between the parties is the importance you place on your suggestion that a planning application will be invalid if the red line location plan omits to include relevant visibility splays which are part of the existing adopted highway.

4.2 You recognize that there are no reported cases to support your submission in such regard but what you have said in a letter dated 7<sup>th</sup> October is as follows:

"...However, if necessary, we are prepared to argue that such an application would be unlawful on the basis that the inclusion of the relevant land within the depicted boundaries of the land to which the application relates is necessary in order to allow for a positive planning condition to be

lawfully attached to any permission granted. Should we need to argue this point, we will rely upon one or more of the following authorities: *Mouchell Superannuation Fund Trustees v Oxfordshire County Council* [1992] 1 P.L.R. 97, *Davenport v London Borough of Hammersmith and Fulham* [1999] (CO/4485/98), *British Railways Board v Secretary of State for the Environment* [1994] 1 EGLR 197, and/or *Grampian Regional Council v City of Aberdeen District Council* 1984 SC (HL) 58....”

4.3 It is the Council’s position that a positive planning condition is not required in relation to relevant visibility splays which are part of the existing adopted highway and that none of the cases you have referred to address this point.

5 Para 5 of your letter

5.1 In paragraph 5 of your letter you set out the proposition that “..the Council’s consideration of planning application 20/03370/OUT is unlawful pursuant to section 327A of the Town and Country Planning Act 1990 (the “1990 Act”) because the application does not comply with the requirements of article 7 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (the “2015 Order”)....”

5.2 This proposition is not accepted by the Council.

6 Para 6 of your letter

6.1 In your para 6 of your letter you quote Section 327A of the 1990 Act

6.2 The Council does not accept that by considering the application (and the location plan) in its current form there would be a breach of Section 327A of the 1990 Act

7 Para 7 of your letter

7.1 You then in para 7 of your letter quote Article 7 of the 2015 Order

7.2 It is the Council’s position that the red line on the location plan identifies the land to which the application relates in so far as the red line abuts the existing adopted highway

7.3 Further, it is the Council’s position that the plan is not deficient because the red line does not extend to show visibility splays within the existing adopted highway

8 Para 8 of your letter

Noted

9 Para 9 of your letter

9.1 You suggest in your para 9 that:

”...In the case of application 20/03370/OUT, the location plan does not identify all of the land to which the application relates as is required under article 7(1)(c)(i) of the 2015 Order, and the application does not include the particulars specified in the application form as is required under article 7(1)(b) of the 2015 Order. Accordingly, the application can not be entertained by the Council pursuant to the provisions of section 327A of the 1990 Act. Interpretation of Article 7(1) of the 2015 Order...”

9.2 This proposition is not accepted by the Council

10 Para 10 of your letter

It is the Council’s position that in this case the application site has been edged clearly with a red line on the location plan and it includes all land to which the application relates including land required for access to the site from a public highway and that the red line is not defective because it does not show within the red line the land for relevant visibility splays which are already within the existing adopted highway.

11 Para 11 of your letter

It is not thought necessary to comment on your para 11.

12 Para 12 of your letter

12.1 Here you state that “..the application form, published by the Ministry of Housing, Communities and Local Government provides that:

“The application site must be edged clearly with a red line on the location plan. It should include all land necessary to carry out the proposed development (e.g. land required for access to the site from a public highway, visibility splays (access around a road junction or access, which should be free from obstruction), landscaping, car parking and open areas around buildings).”

12.2 It is the Council’s position that in this case the application site has been edged clearly with a red line on the location plan and that it includes all land necessary to carry out the proposed development (e.g. land required for access to the site from a public highway, and also the land for all relevant visibility splays which are not within the existing adopted highway.

13 Para 13 of your letter

It is not thought necessary to comment on your para 13.

14 Para 14 of your letter

14.1 Here you say that at the time the 2015 Order was made, the planning application form instructions published by the Ministry of Communities and Local Government provided that:

“The application site must be edged clearly with a red line on the location plan. It should include all land necessary to carry out the proposed development (e.g. land required for access to the site from a public highway, visibility splays (access around a road junction or access, which should be free from obstruction), landscaping, car parking and open areas around buildings).”

14.2 This however is much the same as covered by your paras numbered 8 and 12 so it is not thought necessary to make any additional comment on your para 14.

15 Para 15 of your letter

I am not sure as to the point you are seeking to raise here.

16 Para 16 of your letter

Para 16 of your letter is much the same as covered by your paras numbered 8,12 and 14 so it is not thought necessary to make any additional comment on your para 16.

17 Para 17 of your letter

17.1 Here you acknowledge that not every planning application will require visibility splays and you give as example, an application submitted for a city centre development where no vehicular access to the site was possible, and where you recognize that visibility splays would obviously not be required.

17.2 However, you then continue

“...the Consortium intends to submit that where an application creates a new vehicular access or proposes the intensified use of an existing vehicular access, the land necessary for visibility splays must be included within the area defined by the red line on the location plan...”

17.3 If that proposition is correct then literally thousands of planning applications up and down the country should be re-visited and be held to be invalid because they do not show within the red line relevant visibility splays which are within the existing adopted highway. The same point should likewise apply to a whole host of current appeals where again the applications which are the subject of those appeals do not show within the red line on the location plan relevant visibility

splays which are within the existing adopted highway .The reference to appeal cases is also pertinent in the context of your comments under your para 18 where, in effect ,you suggest the Secretary of State does not have the power to ignore the statutory requirements in any case.

18 Para 18 of your letter

18.1 In your para 18 you say “.. the requirements of article 7 of the 2015 Order are statutory requirements, and neither local planning authorities nor the Secretary of State have the power to ignore the statutory requirements in any case. Any dispute as to whether the statutory requirements have been met is a question within the jurisdiction of the courts. This question can be contrasted with the question of whether visibility splays are necessary to make a proposed development or change of use acceptable in planning terms, which is a question of judgment purely within the purview of the decision maker, subject to the usual legal tests on unreasonableness....”

18.2 The Council does not accept that in this case there has been any breach of the statutory requirements of article 7 of the 2015 Order

19 Para 19 of your letter

19.1 Here you acknowledge that the Council has previously obtained legal advice. You state that no authorities have been provided in support of the Council's position but you omit to acknowledge that the full written advice of Mr Streeten was shared with you and/or that you take issue with the following numbered paragraphs of that Advice (see section 35 of this letter as below)

Paras numbered 7,8,12,14 and 18

19.2 Rather you argue that the Council's position is at odds with the approved principles of statutory interpretation as outlined earlier in your letter.

19.3 The Council does not accept that the position it supports is at odds with the approved principles of statutory interpretation as outlined earlier in your letter

20 Para 20 of your letter

Here you suggest that “a visibility splay will not be maintained free of vegetation without some sort of intervention...” and you suggest that this “..intervention can either take the form of regular and ongoing maintenance to remove vegetation or the installation of hardstanding such as asphalt or concrete, which would prevent the growth of vegetation..” which then leads on to your comments under your para 21

21 Para 21 of your letter

21.1 Here you suggest that “...the ongoing maintenance of land necessary to remove vegetation and maintain a functional visibility splay requires a positive planning condition to be attached to any permission granted...” and you continue that “... a positive planning conditions may only be applied to land that is within the application site or within the control of the applicant...”

21.2 The Council does not accept that a positive planning condition is required in relation to relevant visibility splays which are wholly within the existing adopted highway

21.3 The Council does not accept that the decision in *Mouchell Superannuation Fund Trustees v Oxfordshire County Council* supports a proposition that a positive condition is required for visibility splays which are wholly within the existing adopted highway

22 Para 22 of your letter

22.1 It is not accepted that the Council's interpretation of Article 7 would “...create the very kind of mischief..”that you suggest “article 7 and the instructions in the application form were apparently designed to prevent...”

22.2 If that were the case then I would invite to explain why the Council's interpretation is consistent not only with other LPAs but also countless decisions of Planning Inspectors in countless Appeal decisions

22.3 You also suggest that

"...If the interpretation of article 7 as advanced in the Council's legal advice were to be accepted, it would be impossible to attach positive conditions requiring the maintenance of visibility splays in cases where the land in question did not require a change of use or operational development..." but I would ask you to provide a single example of where a condition has been imposed in relation to relevant visibility splays within the existing adopted highway.

23 Para 23 of your letter

Your comments under para 23 are thought to be misguided and are not supported by the highway authority

24 Para 24 of your letter

You comment that

"...there may be many ways to achieve functional visibility splays for any given application, for example, by a positive condition, a Grampian condition, or through a planning obligation..."

but you omit to also include the highway authority using their powers to achieve functional visibility splays where such are within the existing adopted highway and I do not think it unreasonable to ask why the highway authority are not more concerned about the point at issue if you are right that their powers are not sufficient in relation to visibility splays within the existing adopted highway.

25 Para 25 of your letter

25.1 Here you suggest that:

"...For a local planning authority to accept as valid and to proceed to consider a planning application that plainly fails to comply with the requirements of article 7 and the requirements stated in the application form, would in effect remove the option of the positive planning condition from the decision maker's choices. This effectively constitutes predetermination of the application, at least in regards to a positive condition for the maintenance of visibility splays, and where the issue of visibility splays goes to the root of the decision as to whether to grant planning permission, this predetermination may be sufficient for the court to decide to quash a planning permission granted in such circumstances...."

25.2 I would submit your reasoning is quite simply flawed

26 Para 26 of your letter

26.1 Here you suggest that:

"...The failure to properly identify the land to which the application relates is also extraordinarily prejudicial to the ability of statutory consultees and members of the public to give intelligent consideration and response to planning proposals during periods of consultations...."

26.2 You recognize that there are no reported cases which support your proposition that a planning application will be invalid if the red line location plan omits to include relevant visibility splays which are part of the existing adopted highway.

27 Para 27 of your letter

27.1 The highway authority does not share your view that a planning application is invalid if the redline on the location plan does not include visibility splays which are within the existing adopted highway

27.2 It is the Council's case that there has not been any procedural impropriety in relation to the consultation arising from the red line shown on the location plan.

28 Para 28 of your letter

Noted, but the Council will strenuously resist any order to prohibit the Council from considering the planning application or any application seeking to quash a planning permission resulting from the application.

29 Para 29 of your letter.

Noted, but again the Council will seek to resist any application for interim relief if such an avenue were pursued

30 Para 30 of your letter

The Council does not accept that insufficient information in relation to the red line has been submitted and accordingly that it has no intention of advising the applicant to that effect

31 Para 31 of your letter

The Council would likewise be willing to consider any form of alternative dispute resolution if it is felt by the Consortium that matters are capable of resolution but the Council is currently of the view that the Consortium is wholly misguided in the approach set out in the pre-action protocol letter

32 Para 32 of your letter

Noted

34 Para 34 of your letter

Noted

[35. May I also remind you of a number of paragraphs in the Advice from Charles Streeten of 20 July 2020 which Advice was copied to you in full and where a number of paragraphs from that Advice are set out below for ease of reference as it is believed they have not been addressed in the pre-action letter dated 28<sup>th</sup> September

35.1 Paragraph numbered 7

"It should, however, be noted that notwithstanding the apparently strict wording of section 327A, the High Court has made clear that a breach of the requirements in the 2015 Order does not, necessarily, mean that a grant of planning permission will be quashed (see *R (Bishop) v Westminster CC* [2017] EWHC 3102 (Admin) at para. 23). Rather, the court retains its discretion regarding whether or not to quash a planning permission granted in breach of the 2015 Order. Indeed, in a case where it is 'highly likely' that the outcome would not have been substantially different absent the error, the court is under a duty pursuant to section 31 of the Senior Courts Act 1981 (as amended) to refuse both permission for judicial review and relief."

35.2 Paragraph numbered 8

"Thus, whilst local planning authorities should always seek to ensure that the requirements of the 2015 Order are properly followed, it may be that an inadvertent failure to follow the procedural requirements set down is not fatal to a grant of planning permission."

35.3 Paragraph numbered 10

"The section of the application form to which the Consortium refers reads:

"The application site must be edged clearly with a red line on the location plan. It should include all land necessary to carry out the proposed development (e.g. land required for access to the site from a public highway, visibility splays (access around a road junction or access, which should be free from obstruction), landscaping, car parking and open areas around buildings)."

35.4 Paragraph numbered 11

“This is also reflected in the Government’s Planning Practice Guidance (“PPG”) which says at reference ID 14-024-20140306:

“The application site should be edged clearly with a red line on the location plan. It should include all land necessary to carry out the proposed development (eg land required for access to the site from a public highway, visibility splays, landscaping, car parking and open areas around buildings). A blue line should be drawn around any other land owned by the applicant, close to or adjoining the application site.”

35.5 Paragraph numbered 12

“In interpreting these words it is important not to lose sight of their context. They have not been drafted as would a policy, still less with the care given to the drafting of legislation. In both cases are intended as practical guidance to those completing an application for planning permission. They should therefore be read with a considerable degree of common sense and not subjected to exegetical legal analysis. If authority is required for this proposition, it is to be found in *R (Solo Retail Limited) v Torridge DC* [2019] EWHC 489 (Admin) at para. 33.”

35.6 Paragraph numbered 14

“The issue, therefore, is whether planning permission for the Development can be granted, notwithstanding that an area included within the visibility splay is on adopted highway outside the red line boundary. My view is that it can:

- a. Firstly, the text of both the application form and the guidance refers to “all land necessary to carry out the proposed development”. In my view, the word development is of central importance. If land is not being developed, it does not need to be included within the red line boundary. Thus, although land that is not adopted highway such that its use needs to be changed to be used as a visibility splay, it may need to be shown within the red line boundary, where the land used for the visibility splay is already adopted highway, and no operational development is required, it does not need to be included within the red line.
- b. Secondly, an over literal reading of the application form and PPG would create absurd results. As those instructing rightly point out, both refer to car parking and open areas around buildings. However, if the development proposed does not include any car parking it plainly would not be invalid if the red line on the location plan did not show land for car parking. Similarly, if the application was such that the footprint of a proposed building meant there were to be no open areas around it, the effect of the application form is clearly not intended to be that the application is invalid because it fails to show any open areas. On the contrary, as both the form and the PPG make clear, the references given are mere examples, and are not intended to be prescriptive or exhaustive. Ultimately, what land is necessary to carry out the proposed development will be a matter of judgement for the local planning authority to determine on the facts of any given case.

35.7 Paragraph numbered 16

“Applying these principles, in my opinion:

Provided that all of the relevant land upon which works to create the access for the Development fall within the red line boundary, the Council would be entitled to conclude that the land necessary to carry out the proposed development does not include land falling within the visibility splays but outwith the red line boundary, which is adopted highway.”

35.8 Paragraph numbered 18

“Moreover, even if I am wrong about that, I am of the view that the prospects of bringing a successful claim for judicial review would be low. I cannot see what prejudice could be said to result from not including adopted highway land forming part of the visibility splay within the red line boundary for the development and, in any event, a claim for judicial review would be likely to be refused permission and/or relief pursuant to section 31 of the Senior Courts Act 1981 on the basis that it is

highly likely the outcome would not have been substantially different absent any error of law identified.”

Yours faithfully

A handwritten signature in black ink, appearing to read 'Stephen Reid', with a horizontal line underneath.

**Stephen Reid**  
Senior Planning Lawyer  
***acting for South Cambridgeshire District Council***

Tel: 01223 457094 / 07817 730893  
Email: [stephen.reid@3csharedservices.org](mailto:stephen.reid@3csharedservices.org)

[REDACTED]

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**From:** Stephen Reid

**Sent:** 03 November 2020 08:40

**To:** Daniel Fulton <dgf@fewslane.co.uk>

**Subject:** FW: 20/02453/S73 (The Retreat, Fews Lane, Longstanton) & 20/03370/OUT (95 Bannold Road, Waterbeach)

Dear Fews Lane consortium Ltd

I am conscious that when you emailed me just over a week ago last Monday you said you were "... in the process of drafting further pre-action correspondence in regards to application 20/02453/S73 (The Retreat, Fews Lane, Longstanton), which will also apply, to some extent, to the issues concerning application 20/03370/OUT at 95 Bannold Road, Waterbeach...."

You also said you were "... waiting to hear back from counsel on a couple of points prior to finalising the letter ..." but you should have it to me sometime the following day.

I await an update.

Thanks

**Stephen Reid**

Senior Planning Lawyer

3C Shared Services – Legal Practice



Telephone: 0781 7730893

Email: [stephen.reid@3csharedservices.org](mailto:stephen.reid@3csharedservices.org)

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- We will make sure our clients are aware of the Practice's complaints procedure.
- We will agree key deadlines/operational requirements with clients within 5 working days.
- We will regularly update our clients on progress (weekly unless no movement on a particular matter)

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**From:** Daniel Fulton <[dgf@fewslane.co.uk](mailto:dgf@fewslane.co.uk)>

**Sent:** 26 October 2020 08:15

**To:** Stephen Reid <[Stephen.Reid@3csharingservices.org](mailto:Stephen.Reid@3csharingservices.org)>

**Subject:** 20/02453/S73 (The Retreat, Fews Lane, Longstanton) & 20/03370/OUT (95 Bannold Road, Waterbeach)

Dear Mr Reid,

I am in the process of drafting further pre-action correspondence in regards to application 20/02453/S73 (The Retreat, Fews Lane, Longstanton), which will also apply, to some extent, to the issues concerning application 20/03370/OUT at 95 Bannold Road, Waterbeach.

I'm waiting to hear back from counsel on a couple of points prior to finalising the letter, but I should have it to you sometime tomorrow.

Kind regards,

Daniel Fulton  
Director

Fews Lane Consortium Ltd  
The Elms  
Fews Lane  
Longstanton  
Cambridge  
CB24 3DP

tel. 01954 789237

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[REDACTED]

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[REDACTED]

**From:** Daniel Fulton <dgf@fewslane.co.uk>  
**Sent:** 13 November 2020 08:25  
**To:** Stephen Reid <Stephen.Reid@3csharingservices.org>  
**Subject:** Update on status of judicial review claims

Dear Mr Reid,

In regards to the prospective judicial review claim concerning the Council's planning decision at Parcel COM4 Orchard Park, the Consortium would like to thank the Council for its pre-action protocol response and to inform the Council that the Consortium has decided not to issue proceedings in this instance.

In regards to the prospective judicial review claim concerning the Council's planning decision pertaining to 1 Horseheath Road, Linton, the Consortium would like to thank the Council for its pre-action protocol response and for deciding to undertake a review of the manner in which it considers application submitted under section 73 of the 1990 Act. The Consortium's view is that the Council would have only the most remote chance of successfully defending its decision in this case. However, as the Council's pre-action protocol response acknowledges that serious legal errors were made by the Council in its consideration of this planning application and as the Council has agreed to undertake a review in order to improve its decision making process in the future, the Consortium has decided not to issue proceedings in this instance. The Consortium hopes that the Council will recognise the decision not to bring proceedings in this instance as a gesture of good will. We hope that we can depend on the Council in the future to endeavour to meet the high standards of public administration expressed in recent statements by the leader and deputy leader of the Council and by the portfolio holder for planning.

In regards to pending development management decisions in Linton more generally, we would like to bring the Council's attention to the outstanding discharge of conditions applications affecting the site at Bartlow Road. In the view of the Consortium, it is essential that the conditions attached to the extant planning permissions are only discharged if the details set forth by the applicant comply with the relevant planning conditions. As the Council is aware, the interpretation of planning conditions is, generally speaking, a matter of law within the jurisdiction of the courts. The planning conditions relating to flooding at this site (S/1963/15/COND10 and S/1963/15/COND11) are extraordinarily clear. Should any part of planning conditions 10 or 11 be discharged on the basis of details that do not comply with the conditions in question, the Consortium will be extremely likely to issue judicial review proceedings against the Council. The Bartlow Road site is in a sensitive location, and inappropriate development at this site could pose a serious risk of flooding to a significant number of dwellings within the village.

In regards to the prospective judicial review claims concerning the proposed developments at 95 Bannold Road, Waterbeach, and The Retreat, Fews Lane, Longstanton, the Consortium would like to thank the Council for its pre-action protocol responses. The Consortium disagrees with the positions asserted in the Council's pre-action protocol responses and continues to maintain that the Council has no lawful authority to entertain these applications pursuant to s. 327A of the 1990 Act and article 7 of the DMPO 2015. The Consortium is likely to issue proceedings in regards to both applications as the pre-action protocol has now been completed.

Yesterday you will have received a letter in regards to a prospective judicial review claim concerning trees within the Knapwell Conservation Area. Given the immediate threat to the trees in question in light of the Council's unlawful decision, the Consortium does not consider the judicial review pre-action protocol to be applicable in this case.

Furthermore, any applications in these proceedings are likely to be issued on a without notice basis. The factual issues in regards to the prospective claim have been set forth by the Knapwell Parish Meeting in its letter to the Council dated 11 November. The relevant law concerning legitimate expectations, minimum lawful consultation procedures, and pre-determination has been extensively set forth by the Consortium in pre-action correspondence and in statements of case from disputes with the Council in the last 12 months. The Consortium considers that the Council will be likely to argue that its decision was in fact taken on 3 November despite the fact that the Council's website states that the decision was taken on 27 October. The Consortium will call the court's attention to this argument, which we assume the Council would make if the application were made with notice. We will also call the court's attention to the date on the decision letter issued. If the Council provides the Consortium with any other grounds of defence of its decision or any evidence supporting any defence, the Consortium will make all of this information known to the court.

The application for pre-action disclosure in regards to the Council's decision to instruct Stantec Ltd will be sent to the Council at the time the application is filed with the court. This will now most likely be on Monday.

The Consortium remains keen to settle all of the outstanding disputes with the Council without the need for further legal proceedings, and we hope that the Council will continue to keep its prospects for success in each case under review.

Kind regards,

Daniel Fulton  
Director

Fews Lane Consortium Ltd  
The Elms  
Fews Lane  
Longstanton  
Cambridge  
CB24 3DP

tel. 01954 789237

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**From:** Stephen Reid  
**Sent:** 16 November 2020 07:39  
**To:** Daniel Fulton <dgf@fewslane.co.uk>  
**Subject:** FW: Update on status of judicial review claims

Dear Fews Lane Consortium Ltd

1. I note that in your email sent to me on 13<sup>th</sup> November you have included the following:

“...In regards to the prospective judicial review claims concerning the proposed developments at 95 Bannold Road, Waterbeach, and The Retreat, Fews Lane, Longstanton, the Consortium would like to thank the Council for its pre-action protocol responses. The Consortium disagrees with the positions asserted in the Council’s pre-action protocol responses and continues to maintain that the Council has no lawful authority to entertain these applications pursuant to s. 327A of the 1990 Act and article 7 of the DMPO 2015. The Consortium is likely to issue proceedings in regards to both applications as the pre-action protocol has now been completed...”

2. May I remind you ,however ,that you have not addressed the following included in the Council’s response on Bannold Road dated 13<sup>th</sup> October

17 [Para 17 of your letter](#)

17.1 Here you acknowledge that not every planning application will require visibility splays and you give as example, an application submitted for a city centre development where no vehicular access to the site was possible, and where you recognize that visibility splays would obviously not be required.

17.2 However, you then continue

“...the Consortium intends to submit that where an application creates a new vehicular access or proposes the intensified use of an existing vehicular

access, the land necessary for visibility splays must be included within the area defined by the red line on the location plan...”

17.3 If that proposition is correct then literally thousands of planning applications up and down the country should be re-visited and be held to be invalid because they do not show within the red line relevant visibility splays which are within the existing adopted highway. The same point should likewise apply to a whole host of current appeals where again the applications which are the subject of those appeals do not show within the red line on the location plan relevant visibility splays which are within the existing adopted highway. The reference to appeal cases is also pertinent in the context of your comments under your para 18 where, in effect, you suggest the Secretary of State does not have the power to ignore the statutory requirements in any case.

3. Can I ask you to address this point either before you issue proceedings or as part of your proceedings as you seem to think that it would be appropriate that literally thousands of planning applications up and down the country could, or should, be brought to a standstill.

PS I hope to email you today with extensive disclosure of various emails etc as to the engagement of Stantec

**Stephen Reid**

Senior Planning Lawyer

3C Shared Services – Legal Practice



Telephone: 0781 7730893

Email: [stephen.reid@3csharedservices.org](mailto:stephen.reid@3csharedservices.org)

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- We will regularly update our clients on progress (weekly unless no movement on a particular matter)

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**From:** Daniel Fulton <[dgf@fewslane.co.uk](mailto:dgf@fewslane.co.uk)>

**Sent:** 13 November 2020 08:25

**To:** Stephen Reid <[Stephen.Reid@3csharedservices.org](mailto:Stephen.Reid@3csharedservices.org)>

**Subject:** Update on status of judicial review claims

Dear Mr Reid,

In regards to the prospective judicial review claim concerning the Council's planning decision at Parcel COM4 Orchard Park, the Consortium would like to thank the Council for its pre-action protocol response and to inform the Council that the Consortium has decided not to issue proceedings in this instance.

In regards to the prospective judicial review claim concerning the Council's planning decision pertaining to 1 Horseheath Road, Linton, the Consortium would like to thank the Council for its pre-action protocol response and for deciding to undertake a review of the manner in which it considers application submitted under section 73 of the 1990 Act. The Consortium's view is that the Council would have only the most remote chance of successfully defending its decision in this case. However, as the Council's pre-action protocol response acknowledges that serious legal errors were made by the Council in its consideration of this planning application and as the Council has agreed to undertake a review in order to improve its decision making process in the future, the Consortium has decided not to issue proceedings in this instance. The Consortium hopes that the Council will recognise the decision not to bring proceedings in this instance as a gesture of good will. We hope that we can depend on the Council in the future to endeavour to meet the high standards of public administration expressed in recent statements by the leader and deputy leader of the Council and by the portfolio holder for planning.

In regards to pending development management decisions in Linton more generally, we would like to bring the Council's attention to the outstanding discharge of conditions applications affecting the site at Bartlow Road. In the view of the Consortium, it is essential that the conditions attached to the extant planning permissions are only discharged if the details set forth by the applicant comply with the relevant planning conditions. As the Council is aware, the interpretation of planning conditions is, generally speaking, a matter of law within the jurisdiction of the courts. The planning conditions relating to flooding at this site (S/1963/15/COND10 and S/1963/15/COND11) are extraordinarily clear. Should any part of planning conditions 10 or 11 be discharged on the basis of details that do not comply with the conditions in question, the Consortium will be extremely likely to issue judicial review proceedings against the Council. The Bartlow Road site is in a sensitive location, and inappropriate development at this site could pose a serious risk of flooding to a significant number of dwellings within the village.

In regards to the prospective judicial review claims concerning the proposed developments at 95 Bannold Road, Waterbeach, and The Retreat, Few's Lane, Longstanton, the Consortium would like to thank the Council for its pre-action protocol responses. The Consortium disagrees with the positions asserted in the Council's pre-action protocol responses and continues to maintain that the Council has no lawful authority to entertain these applications pursuant to s. 327A of the 1990 Act and article 7 of the DMPO 2015. The Consortium is likely to issue proceedings in regards to both applications as the pre-action protocol has now been completed.

Yesterday you will have received a letter in regards to a prospective judicial review claim concerning trees within the Knapwell Conservation Area. Given the immediate threat to the trees in question in light of the Council's unlawful decision, the Consortium does not consider the judicial review pre-action protocol to be applicable in this case. Furthermore, any applications in these proceedings are likely to be issued on a without notice basis. The factual issues in regards to the prospective claim have been set forth by the Knapwell Parish Meeting in its letter to the Council dated 11 November. The relevant law concerning legitimate expectations, minimum lawful consultation procedures, and pre-determination has been extensively set forth by the Consortium in pre-action correspondence and in statements of case from disputes with the Council in the last 12 months. The Consortium considers that the Council will be likely to argue that its decision was in fact taken on 3 November despite the fact that the Council's website states that the decision was taken on 27 October. The Consortium will call the court's attention to this argument, which we assume the Council would make if the application were made with notice. We will also call the court's attention to the date on the decision letter issued. If the Council provides the Consortium with any other grounds of defence of its decision or any evidence supporting any defence, the Consortium will make all of this information known to the court.

The application for pre-action disclosure in regards to the Council's decision to instruct Stantec Ltd will be sent to the Council at the time the application is filed with the court. This will now most likely be on Monday.

The Consortium remains keen to settle all of the outstanding disputes with the Council without the need for further legal proceedings, and we hope that the Council will continue to keep its prospects for success in each case under review.

Kind regards,

Daniel Fulton  
Director

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[REDACTED]

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**From:** Daniel Fulton <dgf@fewslane.co.uk>  
**Sent:** 29 December 2020 11:47  
**To:** Stephen Reid <Stephen.Reid@3csharedservices.org>  
**Cc:** Kelly Stephen <Stephen.Kelly@greatercambridgeplanning.org>; Glenda Hansen <Glenda.Hansen@greatercambridgeplanning.org>; Lewis Tomlinson <Lewis.Tomlinson@greatercambridgeplanning.org>  
**Subject:** Re: planning application 20/02453/S73 - The Retreat, Fews Lane, Longstanton  
**Importance:** High

Dear Mr Reid,

I wanted to confirm that I have received your email and will be in touch regarding both applications in the coming days.

Kind regards,

Daniel Fulton  
Director

Fews Lane Consortium Ltd  
The Elms  
Fews Lane  
Longstanton  
Cambridge  
CB24 3DP

tel. 01954 789237

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On 29 Dec 2020, at 11:45am, Stephen Reid <[Stephen.Reid@3csharedservices.org](mailto:Stephen.Reid@3csharedservices.org)> wrote:

Dear Fews Lane Consortium Ltd

1. I refer to the email sent on 23<sup>rd</sup> December .It would be helpful to hear from you if you intend to provide a substantive response to

that email and ,if so, any likely timescale as to when I may expect to receive something in such regard.

2. I am conscious that when you emailed on 13 November 2020 you included the following

“...In regards to the prospective judicial review claims concerning the proposed developments at 95 Bannold Road, Waterbeach, and The Retreat, Fews Lane, Longstanton, the Consortium would like to thank the Council for its pre-action protocol responses. The Consortium disagrees with the positions asserted in the Council’s pre-action protocol responses and continues to maintain that the Council has no lawful authority to entertain these applications pursuant to s. 327A of the 1990 Act and article 7 of the DMPO 2015. The Consortium is likely to issue proceedings in regards to both applications as the pre-action protocol has now been completed....”

“...The Consortium remains keen to settle all of the outstanding disputes with the Council without the need for further legal proceedings, and we hope that the Council will continue to keep its prospects for success in each case under review....”

3.The Council continues to review its various applications etc and in this context it would be helpful, as indicated above, to hear from you if you intend to provide a substantive response to the email sent on 23<sup>rd</sup> December

- 4.1 I am also conscious that in an earlier email sent on 23<sup>rd</sup> August you said:

“....(1) I can confirm that if the Council continues to consider application 20/02453/S73 in its present form without a location plan that complies with the requirements stated in the application form **the Consortium will issue judicial review proceedings before a decision is made** .

(3) **It is an extraordinarily wasteful use of limited public resources for the Council to continue to unlawfully consider invalid planning applications**

(4)The Consortium is likely to seek a prohibiting order rather than a quashing order as stated in the consortium's initial pre- action protocol letter...”

4.2 I raise the above (including the bits where I have added the bold and underlining by way of emphasis ) in the context ,at least in part, as to point 3 of my email of 23 rd December where I said :

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“...Under Part 1 of the Civil Procedure Rules, parties are required to help the Court see that disputes are resolved in a manner that saves expense, that ensures claims are dealt with expeditiously and fairly, and that takes into account the need for the Court to allow to allocate resources to other cases ,,,”

6. In the light of the above are you able to indicate your intentions in respect of application 20/02453/S73?

**Stephen Reid**  
Senior Planning Lawyer  
3C Shared Services – Legal Practice  
<image001.png>  
Telephone: 0781 7730893  
Email: [stephen.reid@3csharedservices.org](mailto:stephen.reid@3csharedservices.org)

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**From:** Stephen Reid

**Sent:** 23 December 2020 11:28

**To:** Daniel Fulton <[dgf@fewslane.co.uk](mailto:dgf@fewslane.co.uk)>

**Cc:** Kelly Stephen <[Stephen.Kelly@greatercambridgeplanning.org](mailto:Stephen.Kelly@greatercambridgeplanning.org)>; Lewis Tomlinson <[Lewis.Tomlinson@greatercambridgeplanning.org](mailto:Lewis.Tomlinson@greatercambridgeplanning.org)>; Sharon Brown <[Sharon.Brown@greatercambridgeplanning.org](mailto:Sharon.Brown@greatercambridgeplanning.org)>; Rory McKenna <[Rory.Mckenna@3csharedservices.org](mailto:Rory.Mckenna@3csharedservices.org)>; Toby Williams <[Toby.Williams@greatercambridgeplanning.org](mailto:Toby.Williams@greatercambridgeplanning.org)>

**Subject:** planning application 20/02453/S73 - The Retreat, Fews Lane, Longstanton

**Importance:** High

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1. Can you clarify your reasons for stating that “..the application is invalid and is being considered by the Council unlawfully in violation of s. 327A of the 1990 Act and article 7 of the 2015 Order...” not least in the context of earlier correspondence on the point.
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I'm waiting to hear back from counsel on a couple of points prior to finalising the letter, but I should have it to you sometime tomorrow....”

I have emailed you previously for an update as to the above position but do not appear to have heard back . Given your earlier statement, are you therefore able to indicate your intentions in respect of application 20/02453/S73?

Yours sincerely

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**From:** Daniel Fulton <[dgf@fewslane.co.uk](mailto:dgf@fewslane.co.uk)>  
**Sent:** 02 December 2020 10:11  
**To:** Kelly Stephen <[Stephen.Kelly@greatercambridgeplanning.org](mailto:Stephen.Kelly@greatercambridgeplanning.org)>  
**Cc:** Stephen Reid <[Stephen.Reid@3csharedservices.org](mailto:Stephen.Reid@3csharedservices.org)>  
**Subject:** Re: Delegation of planning application 20/02453/S73 - The Retreat, Fews Lane, Longstanton

Dear Mr Kelly,

Thank you for your email.

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The application is invalid and is being considered by the Council unlawfully in violation of s. 327A of the 1990 Act and article 7 of the 2015 Order.

The Council's lawyers have done their best in the pre-action correspondence to defend the Council's decision to entertain the application, but they are in a very difficult position as officers have failed to correctly ascertain the factual circumstances of the application. I'm afraid that the Council has no hope of success in this judicial review.

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This application raises considerable questions of law and planning judgment, and it would not be appropriate for it to be determined by officers under delegated powers.

If the Council can not agree to put this application before the committee, I see little hope for agreement in other areas, and it may be best to let events play out through the legal process.

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On 1 Dec 2020, at 4:29pm, Kelly Stephen  
<[Stephen.Kelly@greatercambridgeplanning.org](mailto:Stephen.Kelly@greatercambridgeplanning.org)> wrote:

Dear Mr Fulton,

Thank you for your email. I am just checking back with the case officer and will advise you on this matter shortly.

Yours sincerely

**Stephen Kelly** | Joint Director of Planning and Economic Development

<image001.jpg>

t: 07711 918993 | e: [stephen.kelly@scambs.gov.uk](mailto:stephen.kelly@scambs.gov.uk)  
<https://www.scambs.gov.uk/planning/>  
<https://www.cambridge.gov.uk/planning>

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**From:** Daniel Fulton <[dgf@fewslane.co.uk](mailto:dgf@fewslane.co.uk)>  
**Sent:** 30 November 2020 13:38  
**To:** Kelly Stephen <[Stephen.Kelly@greatercambridgeplanning.org](mailto:Stephen.Kelly@greatercambridgeplanning.org)>  
**Cc:** Stephen Reid <[Stephen.Reid@3csharedservices.org](mailto:Stephen.Reid@3csharedservices.org)>  
**Subject:** Delegation of planning application 20/02453/S73 - The Retreat, Fews Lane, Longstanton

Dear Mr Kelly,

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[REDACTED]

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**From:** Stephen Reid  
**Sent:** 29 December 2020 11:50  
**To:** Daniel Fulton <[dgf@fewslane.co.uk](mailto:dgf@fewslane.co.uk)>  
**Cc:** Kelly Stephen <[Stephen.Kelly@greatercambridgeplanning.org](mailto:Stephen.Kelly@greatercambridgeplanning.org)>; Glenda Hansen <[Glenda.Hansen@greatercambridgeplanning.org](mailto:Glenda.Hansen@greatercambridgeplanning.org)>; Lewis Tomlinson <[Lewis.Tomlinson@greatercambridgeplanning.org](mailto:Lewis.Tomlinson@greatercambridgeplanning.org)>  
**Subject:** RE: planning application 20/02453/S73 - The Retreat, Fews Lane, Longstanton

Dear Fews Lane Consortium Ltd

Please clarify your reference to "both applications"

thanks

**Stephen Reid**  
Senior Planning Lawyer  
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[REDACTED]

---

**From:** Daniel Fulton <dgf@fewslane.co.uk>  
**Sent:** 04 February 2021 13:04  
**To:** Stephen Reid <Stephen.Reid@3csharedservices.org>  
**Subject:** 20/04223/HFUL – 20A Pipers Close, Fowlmere SG8 7RX

Dear Mr Reid,

I believe that at one point in the past several months, the Council was of the view that section 65(5) of the Town and Country Planning Act 1990 and article 13(1) of the Development Management Procedure Order 2015 do not apply to parts of the land to which a planning application relates when that land is owned by a highway authority.

I believe that you restated this position when we met with Sharon Brown on 8 January, arguing that if section 65(5) of the 1990 Act and article 13(1) of the 2015 Order did apply to land owned by highway authorities, then thousands of planning decisions up and down the country would be subject to legal challenge.

Could I ask you to please confirm if I have correctly understood the Council's position on this issue, and if not, could I please ask you to explain how I have misunderstood the Council's position?

Planning application 20/04223/HFUL seeks permission for a new access and an extension of the existing parking and turning area at 20A Pipers Close, Fowlmere SG8 7RX.

The applicant is Mr Sean Gentle, who appears to be applying for planning permission on behalf of South Cambridgeshire District Council.

The property at 20A Pipers Close appears to be owned by South Cambridgeshire District Council.

Pipers Close appears to be an adopted public highway.

The application proposes development of the highway verge along Pipers Close and the footway along Pipers Close. The land on which this development would be carried out appears to be owned by the local highway authority.

The applicant has completed Ownership Certificate A, stating that on the day 21 days before the date of the application no one except the applicant was the owner of any part of the land to which the application relates.

Section 65(6) of the 1990 Act provides that:

“If any person—

(a) issues a certificate which purports to comply with any requirement imposed by virtue of this section and contains a statement which he knows to be false or misleading in a material particular; or

(b) recklessly issues a certificate which purports to comply with any such requirement and contains a statement which is false or misleading in a material particular,

he shall be guilty of an offence.”

Section 65(7) of the 1990 Act provides that:

“A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.”

It is the view of the Consortium that the legal position asserted by the Council, which is summarised in the first paragraph of this email, is not correct, and I would respectfully like to ask the Council to please reconsider its position on this issue.

Kind regards,

Daniel Fulton  
Director

Fews Lane Consortium Ltd  
The Elms  
Fews Lane  
Longstanton  
Cambridge  
CB24 3DP

tel. 01954 789237

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The Fews Lane Consortium Ltd is registered in England and Wales. Company No. 11688336

[REDACTED]

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**From:** Stephen Reid  
**Sent:** 09 February 2021 08:37  
**To:** Daniel Fulton <dgf@fewslane.co.uk>  
**Cc:** Carter Chris <Chris.Carter@greatercambridgeplanning.org>  
**Subject:** FW: 20ch/04223/HFUL – 20A Pipers Close, Fowlmere SG8 7RX

Dear Fews Lane Consortium Ltd

I am conscious that when you emailed me on 4<sup>th</sup> February your email began as follows:

“....I believe that at one point in the past several months, the Council was of the view that section 65(5) of the Town and Country Planning Act 1990 and article 13(1) of the Development Management Procedure Order 2015 do not apply to parts of the land to which a planning application relates when that land is owned by a highway authority.

I believe that you restated this position when we met with Sharon Brown on 8 January, arguing that if section 65(5) of the 1990 Act and article 13(1) of the 2015 Order did apply to land owned by highway authorities, then thousands of planning decisions up and down the country would be subject to legal challenge.

Could I ask you to please confirm if I have correctly understood the Council’s position on this issue, and if not, could I please ask you to explain how I have misunderstood the Council’s position?...”

The Council’s position is that a planning application where the red line on the location plan forming part of the planning application does not include visibility splays where those visibility splays are within the existing adopted highway the application is not an invalid application because the red line does not extend to cover such visibility splays which are within the existing adopted highway.

I am conscious that in an earlier email sent on 13<sup>th</sup> November 2020 you included the following:

“...In regards to the prospective judicial review claims concerning the proposed developments at 95 Bannold Road ,Waterbeach and The Retreat, Fews Lane, Longstanton, the Consortium would like to thank the Council pre-action protocol responses. The Consortium disagrees with the positions asserted in the Council’s pre-action protocol responses and continues to maintain that the Council has no lawful authority to entertain these applications pursuant to s. 327A of the 1990 Act and article 7 of the DMPO 2015. The Consortium is likely to issue proceedings in regards to both applications as the pre-action protocol has now been completed....”

At that stage the points at issue appeared to be the suggestion that the Council had no lawful authority to entertain the relevant applications pursuant to s. 327A of the 1990 Act and article 7 of the DMPO 2015 and now the points being raised are in relation to section 65(5) of the Town and Country Planning Act 1990 and article 13(1) of the Development Management Procedure Order 2015 .

Are you able to clarify whether section 65(5) of the Town and Country Planning Act 1990 and article 13(1) of the Development Management Procedure Order 2015 remain points of concern?

I am not familiar with the application for 20A Pipers Close ,Fowlmere (20/04223/HFUL) and understand that someone in the Planning team is looking at that application in the context of the points you have raised.

**Stephen Reid**

Senior Planning Lawyer

3C Shared Services – Legal Practice



Telephone: 0781 7730893

Email: [stephen.reid@3csharedservices.org](mailto:stephen.reid@3csharedservices.org)

3C Shared Services is a strategic partnership between Cambridge City Council, Huntingdonshire District Council and South Cambridgeshire District Council

**3C Legal Practice – Our Commitment to our Clients:-**

- We will endeavour to return telephone calls within 24hrs.
- We will acknowledge correspondence (including Emails) within 2 working days of receipt.
- We will make sure our clients are aware of the Practice’s complaints procedure.
- We will agree key deadlines/operational requirements with clients within 5 working days.
- We will regularly update our clients on progress (weekly unless no movement on a particular matter)

---

**From:** Daniel Fulton <[dgf@fewslane.co.uk](mailto:dgf@fewslane.co.uk)>

**Sent:** 04 February 2021 13:04

To: Stephen Reid <[Stephen.Reid@3csharedservices.org](mailto:Stephen.Reid@3csharedservices.org)>  
Subject: 20/04223/HFUL – 20A Pipers Close, Fowlmere SG8 7RX

Dear Mr Reid,

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Pipers Close appears to be an adopted public highway.

The application proposes development of the highway verge along Pipers Close and the footway along Pipers Close. The land on which this development would be carried out appears to be owned by the local highway authority.

The applicant has completed Ownership Certificate A, stating that on the day 21 days before the date of the application no one except the applicant was the owner of any part of the land to which the application relates.

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(b) recklessly issues a certificate which purports to comply with any such requirement and contains a statement which is false or misleading in a material particular,  
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# Agenda Item 8



13<sup>th</sup> April 2021

**Report to:** South Cambridgeshire District  
Council Planning Committee

**Lead Officer:** Joint Director of Planning and Economic Development  
Jane Rodens

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## **20/03105/FUL – Fowlmere / Foxton (Mill Farm, Fowlmere Road, Fowlmere, SG8 6EZ)**

Proposal: Construction of a single storey dwelling

Applicant: Mr Timothy Poulson, Poulson Architecture

Key material considerations:

- Principle of Development
- Character and Appearance of the Area
- Residential Amenity
- Ecology
- Drainage
- Highways

Date of Member site visit: None

Is it a Departure Application: Yes

Decision due by: 31<sup>st</sup> July 2020 (further Extension of time requested)

Application brought to Committee because: Referred to Planning Committee By : Fowlmere Parish Council

Presenting officer: Jane Rodens, Senior Planning Officer

## **Executive Summary**

1. This application seeks full planning permission of one dwelling outside the development framework but is considered to be of exceptional quality in line with Policy H/15 of the adopted South Cambridgeshire District Council Local Plan 2018 and Paragraph 79 e) of the National Planning Policy Framework (NPPF).
2. Objections have been received from Fowlmere Parish Council and they have recommended that the application is to be called before Planning Committee if the Planning Officers are recommending approval. The application was considered at the Delegation Meeting on the 9<sup>th</sup> March 2021, where it was decided that this application is to be brought to Planning Committee for a decision.
3. The application is being recommend for approval by Planning Officers.

## **Relevant planning history**

4. S/3782/19/FL - Construction of a new single storey house – Withdrawn  
  
S/1970/04/F – Erection of Dwelling and Conversion of barn into garage/carport/workshop and store following demolition of 2 existing dwellings – Approved  
  
S/0499/03/O - Erection of dwelling following demolition of existing dwelling - Approved

## **Planning policies**

### **National Guidance**

5. National Planning Policy Framework 2019 (NPPF)
6. National Planning Practice Guidance (NPPG)
7. National Design Guide (NDG)

### **South Cambridgeshire Local Plan 2018**

8. S/1 Vision  
S/2 Objectives of the Local Plan  
S/3 Presumption in Favour of Sustainable Development  
S/7 Development Frameworks  
CC/1 Mitigation and Adaptation to Climate Change  
CC/3 Renewable and Low Carbon Energy in New Developments  
CC/4 Water Efficiency  
CC/6 Construction Methods  
CC/7 Water Quality  
CC/8 Sustainable Drainage Systems  
HQ/1 Design Principles

NH/2 Protecting and enhancing landscape Character  
NH/4 Biodiversity  
H/15 Countryside Dwellings of Exceptional Quality  
H/12 Residential Space Standards  
TI/2 Planning for Sustainable Travel  
TI/3 Parking Provision  
TI/8 Infrastructure and New Developments  
TI/10 Broadband

### **South Cambridgeshire Supplementary Planning Documents (SPD)**

9. 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  
Public Art SPD- Adopted 2009  
Health Impact Assessment SPD – March 2011  
Greater Cambridge Sustainable Design and Construction Supplementary Planning Document- Adopted January 2020

### **Consultation**

10. Amendments and additional information was submitted through the planning process and further consultations has been carried out.
11. **Parish Council:** “ Fowlmere Parish Council recommends refusal of this application.

The application is outside of the village envelope so would be contrary to Policy S/7, unless it could be demonstrated to be supported by other policies detailed within national policy or the Local Plan. If this cannot be conclusively demonstrated then the application should be refused. There is the risk of setting a dangerous precedent if a building is permitted in the proposed location and it is not fully compliant with national and local planning policy. As we set out below, we do not believe that the necessary criteria for developing in the countryside are met by the proposal.

It is our understanding that the applicant is suggesting that the proposed development meets the standards set out in paragraph 79e of the NPPF, and by extension Policy H/15 in the Local Plan.

The NPPF states:

79. Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

e) the design is of exceptional quality, in that it:

- is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and
- would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.

SCDC Policy H/15 Countryside Dwellings of Exceptional Quality states Outside the Green Belt, single new bespoke dwellings of exceptional quality will be permitted in the countryside providing all of the following criteria are met:

- a) The dwelling would reflect the highest standards in architecture, being recognised as truly outstanding or innovative;
- b) The dwelling would significantly enhance its immediate setting;
- c) The nature and size of the site, and the design of the dwelling, its landscaping and location on site are sensitive to the defining characteristics of the local area and to wider views;
- d) That there are no existing dwellings on the site capable of being replaced under Policy H/14.

For the application to be compliant with both national policy and the Local Plan, the requirements of 79e of the NPPF and all the conditions set out in Policy H/15 would need to be met.

The application does not comply with Policy H/15 as this policy is only applicable to cases where there are no existing dwellings within the curtilage of the site. It is our understanding that the land currently forms part of Register Plan CB4151 and is within the historic curtilage of Mill Farm, which is currently occupied by the applicant. This would make the application incompatible with H/15d, and in fact the construction of a dwelling on this site should only be considered under Policy H/14 which would require this to be a one-for-one replacement of the existing residential dwelling at Mill Farm. The construction of an additional dwelling within the site is contrary to policy.

In terms of the tests within paragraph 79e of the NPPF, it is necessary to judge the application on both its design merits and whether it would significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area.

The Parish Council do not feel qualified to offer a judgement on the architectural merits of the proposed building and will defer to the professional panels established to make such subjective judgements. However, we note that the applicant is a member of the South Cambridgeshire Design Enabling Panel. As a result, we would expect that officers would refer this application out to the design panel of a neighbouring authority for an independent assessment in order to mitigate against any perception of possible conflicts of interest.

Whilst we will not comment directly on the standards of design, the Parish Council believes that its local knowledge is crucial to determining the outcome on the second test regarding whether the dwelling would significantly enhance its immediate setting. We believe that at best the proposed structure might possibly be considered to be sympathetic to the setting, but are strongly of the view that

the development of this property could not be judged to significantly enhance the immediate setting. This is deliberately set as a very high bar in national policy. The proposed structure would also be out of keeping with the surrounding cluster of buildings and as such would not be sensitive to the defining characteristics of the local area.

The Parish Council also has particular concerns about the potential environmental impact of development on this site:

- We note that the site is adjacent to a Site of Special Scientific Interest (SSSI), and in the SSSI Impact Risk Zone (SSSI IRZ), as well as bounded by two important chalk stream water courses. Whilst aspects of environmental impact had been considered within the application, the assessments undertaken do not appear to be as detailed as would be expected for a site of such sensitivity.
- We note that the aquifer in the area is currently very low and the proposal for the development to further abstract from it should not be allowed in order to protect the water levels in the adjoining RSPB Fowlmere Bird Reserve, where the mere has dried out in recent years.
- Similarly, we have concern that the proposed package treatment plant would discharge into the adjoining river and the potential for this to lead to pollution incidents in a particularly sensitive location if not properly operated and maintained.
- We also have concern that the CorTen steel construction is design to rust in situ and would request that officers seek reassurance that this process has no risk of leaching contaminants into the local water courses.

The flood risk and previously known flooding history of the site are also a concern, and we note that the proposed access road passes through an area classified as Flood Zone 3, and that much of the site has historically flooded.

The Parish Council is also concerned about the traffic impact, both during construction and habitation. Mill Road, Fowlmere is single track with passing places, so access is not good. The proposed access road for the site is very close to a blind bend in the road, which raises significant safety concerns. Added to which, there are no existing pathways and no scope to construct footpaths to link with the nearby centres of rural population, so the development would be entirely reliant upon private car for access and therefore would be in conflict with Policy TI/2 Planning for Sustainable Transport.

As a result of these material factors, and most significantly the conflicts with a range of established planning policies, and the failure to meet the rigorous tests of NPPF 79e and SCDC Policy H/15, Fowlmere Parish Council recommends refusal.

If SCDC planning officers are minded to disagree and support approval, then Fowlmere Parish Council requests that there should be a site visit, and that the application should be sent for consideration by the SCDC Planning Committee given the particularly sensitive nature of the site under consideration and the conflicts with current planning policies.

**2nd Comments:** “Fowlmere Parish Council will not be submitting any further response to the documents recently uploaded on file for 20/03105/FUL. We do not believe that these impact on any of the material planning considerations that we have previously raised, and would ask that our previous comments continue to be taken into account when you review the merits of the case.”

12. **South Cambridgeshire District Council Trees Officer:** There are no arboricultural or hedgerow objections to this application. The trees on the site have a Legal protection through TPO & no statutory protection.

The hedgerows that boarder the site may qualify as important hedgerows under the Hedgerow Regulations 1997 and would therefore have statutory protection.

There are some concerns over the quality of the information that has been provided and it is recommended that the following conditions are applied to the application.

- Arboricultural Method Statement and Tree Protection Strategy
- Planting details of replacement trees for those lost to facilitate development.
- That the boundary hedgerows be retained in perpetuity.

13. **South Cambridgeshire District Council Urban Design:** The design of the proposed dwelling is considered to be of an exceptional quality, it is truly outstanding and would reflect the highest standards in architecture, help to raise standards of design more generally in rural areas. The proposals would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area, meeting the objectives of Paragraph 79e of the ‘National Planning Policy Framework’ (2019) and Policies HQ/1 (Design Principles) and H/15 (Countryside Dwellings of Exceptional Quality) of the ‘South Cambridgeshire Local Plan’ (2018).

It is recommended that the application is approved subject to conditions.

- Materials
- Sample Panel
- Sculptures
- Doors, Windows and Rooflights

14. **South Cambridgeshire District Council Landscape Officer:** The additional information has been provided as part of the application, this has overcome some of the concerns to the application. There is no objection to the application, subject to the following conditions:

- New soft landscaping
- New hard landscaping
- Boundary Treatments
- Lighting

15. **South Cambridgeshire District Council Ecology Officer:** There is no objection to the application subject to the following conditions

- Construction Environmental Management Plan (Biodiversity)
- Habitat Creation and Management Plan

- External Lighting

16. **Natural England:** There are amended Impact Risk Zones (IRZs) and planning applications for new residential development need to consider recreational pressure impacts to nearby sensitive SSSIs. There is a greater impact on SSSI's due to more people are accessing the natural environment than ever before for activities such as daily exercise, dog-walking and enjoyment of the countryside.

With the recent review of Cambridgeshire SSSI's there are many sites are already at recreational carrying capacity with limited opportunity for further access management measures to deal with additional visitors.

The amendments to the IRZs introduce a recreational pressure 'zone of potential risk' for SSSIs of either 2km or 5km. This is a best estimate of the distances people are travelling to access these sites regularly based on currently available information and anecdotal records, together with evidence 'in the field' of damage or disturbance to site notified features.

Whilst Natural England appreciates the need for LPAs to give due consideration to existing Local Plan policy, our advice is that risk to SSSIs, evidenced through the IRZs, should be rigorously assessed and adverse impacts appropriately avoided and mitigated. Amendments to the IRZs aim to help developers and LPAs to identify relevant residential development to enable a robust assessment and mitigation of recreational pressure impacts.

This aims to help you make planning decisions that are sufficiently informed to ensure development protects designated sites and contributes towards delivery of net biodiversity gains in accordance with paragraphs 170 and 175 of the NPPF3 and in accordance with your responsibilities under Conservation of Habitats & Species Regulations 2017 (as amended), Wildlife & Countryside Act 1981 (as amended), Town and Country Planning (Development Management Procedure) (England) Order 2015 and s40 of the NERC Act 2006.

The planning authority, as competent authority under the provisions of the Habitats Regulations, must ascertain that the project will not adversely affect the integrity of any European site before granting planning permission, for any plan or project that is likely to have a significant effect on that site (Regulation 61). Requirements are set out within Regulations 61 and 62 of the Regulations. The Government has produced core guidance for competent authorities and developers to assist with the Habitats Regulations Assessment (HRA) process, available on the Defra website.

17. **Cambridgeshire County Council Highways:** There is no objection to the application subject to the following conditions:
- Width of the access
  - Engineerred scheme of the access
  - Drainage of the access

**2<sup>nd</sup> Comments:** The amended Design Report Vol. 5 does not change the Highway Authority's comments of 20th August 2020. While detailing that a bound

material will be used at the entrance to the access road, the use of granite setts or resin bound gravel will not be acceptable within the adopted public highway and any such works must comply with the Housing Estate Road Construction Specification and therefore a detailed engineering design will still be required.

18. **Sustainable Drainage Engineer:** The development proposed is acceptable subject to a condition for finished floor site levels.
19. **South Cambridgeshire District Council sustainability officer:** The proposed scheme is supported in sustainable construction terms, subject to the conditions that are being recommended and details of the materials that are to be provided in the construction of the development and the heat coils.

**2nd Comments:** The further details that have been submitted include the sustainability of the materials, which is welcomed. Also the location of the heating coils for the ground source heat pump system, which are confirmed as being located within the building zone, which will help to minimise any impacts on the wider landscape setting. Details of the layout of infrastructure for elements including the Mechanical Ventilation with Heat Recovery system, the rainwater harvesting system and the drainage system have also been provided. These details are welcomed. The conditions are still to be applied to the application.

20. **RSPB:** There is no objection to the application, but it is requested that the RSPB is involved in any discussion regarding the habitat management plan, which we understand is due to be agreed with Natural England and South Cambridgeshire District Council to ensure no negative impacts occur on Fowlmere Nature Reserve (SSSI). Whilst we do not have any significant concerns regarding the proposal and welcome the idea of buffering and enlarging the reserve's wetland landscape, there is the potential for any habitat creation and later management to have implications on the reserve. Therefore, we would like to ensure that any habitat creation associated with the proposal is complementary to Fowlmere Nature Reserve and the RSPB are happy to provide advice to this end.
21. **Environment Agency:** We have no objection in principle to the proposed development, subject to the following condition.
  - The details of a scheme for the provision and implementation of pollution control of the water environment, including the disposal of foul and surface water.

### **Representations from members of the public**

22. There have been a number of letters of objection and support received on this application. All comments can be found on the Councils website in full, a summary of the comments are below:
23. **Objections** – three letters
  - This development will harm the neighbouring livestock as the new dwelling is 50m away from it.
  - This development will impact on the view from the neighbouring properties as it is built along the boundary of the properties.

- The proposed access is normally under water
- This is not the vision of exceptional country house it is not what could be called the Concept of bird hide, bird hides are wooden and discreet, this is not.
- This application does not reflect the rural nature of the area.
- This would not be a private home due to the accommodation that is being proposed inside.
- Protecting the SSSI site and surrounding land should be left undisturbed.
- There are concerns that allowing this development may set a precedent.
- The development site is on a wildlife corridor connected to a SSSI, and therefore developing it would seem to be at odds with the government's 25 Year Environment Plan, which aims to expand existing sites for nature and to ensure that they are connected by corridors and stepping stones of habitat (as set out in the Lawton Report).
- There is no guarantee that the proposed wildlife will be maintained and retained on the site.
- The access to the site is on a dangerous bend and there are trees and hedges that are to be removed to accommodate this. There is only a few passing spaces on this road and cannot accommodate the new dwelling. There have been accidents on this road.

24. **Supports** – two letters

- This is similar to the application that was submitted earlier.
- It will only be slightly visible from the other properties in the surrounding area. The currently grassland which looks quite uninspiring and the architecture of the proposed building is exceptional and would actually have a positive impact and enhance the setting.
- The wetland and other habitat which will be incorporated into the development will attract additional wildlife.

25. There was a further consultation and four letters of objection were received, which are summarised below:

- The additional information makes no difference to the objections raised previously.
- There will be harm between the dwelling and the agricultural unit, due to the close proximity of the two conflicting uses.
- The application does not comply with Policy H/15 as this policy is only applicable to cases where there are no existing dwellings within the curtilage of the site, which is within the historic curtilage of Mill Farm, which is currently occupied by the applicant. Therefore should only be considered under policy H/14.
- This site is regally under water. Large trees have been uprooted owing to the wet conditions.
- A planning application was refused in Shepreth due to housed livestock near a proposed development site.
- The amendments do not make any difference to the appearance of the building. We do not consider it will have the wow factor in years to come can see people viewing and comment.
- This is already a dangerous road, and it will make it worse

- There has been a platform made in one of the tree for shooting wildlife deer etc. Any development on the site will be detrimental to the SSSI.
- The applicant has already built a house which he live in. The application for a new one which is twice the size of the one he lives in makes us wonder what are his future intensions for it, it is also of the same design of the proposed application, what makes it special.

## **The site and its surroundings**

26. The proposal site is located outside of a development framework, the nearest development frameworks as defined by Policy S/7 are the following (as the crow flies). To the north east is Shepreth which is 983m away, to the east is Fowlmere which is 1422m away and to the south west is Melbourn which is 1362m away.
27. The application site is meadowland and the land is currently not vacant in accordance with the Application form as it is owned and used by Mill Farm. The area of the application site is 1.6 hectares.
28. Running along the north eastern boundary is the River Shep and the rear residential gardens of Mill House, Mill Fram and Springfields, the application site is adjacent to a cluster of dwellings. The land rises towards this boundary of the site from the south western boundary.
29. Along the south west boundary of the site is Guilden Brook. There is also land belonging to Foxfields. This boundary contains mature trees and hedgrows.
30. The proposed dwelling is located within Flood Zone 1 and in close proximity to Flood Zones 2 and 3. Flood Zones 2 and 3 are located to the south and east of the site, predomintly where the proposed access and garden areas are to be. The land rises towards the eastern boundary and the common boundary with Springfields, locating the dwelling on the highest part of the site.
31. To the south of the site is the Fowlmere Watercress Beds Site of Special Scientific Interest (SSSI) which is a RSPB managed nature reserve. The boundary is of mature trees and hedgrows
32. Surrounding and within the site is a mixture of mature hedges and trees. There is a Public Rights of Way Ref: 200/11 to the north of the site across the main highway of Fowlmere Road. There are no TPO's within the site.
33. At National Level the site is situated within the National Landscape Character Area (NCA) 87: East Anglian Chalk. At local level the site is situated within The Chalklands as assessed by SCDC within District Design Guide SPD March 2010

## **The proposal**

34. The proposal is for the development of one single storey market dweling, that is accessed off of Fowlmere Road, via a new access which is to the north west of the site. The new access is opposite Paddlesworth (Neighbouring Dwelling) and

would be created through the current mature hedge by part of its removal and removal of some trees.

35. The proposed single storey dwelling has a flat roof and located in the south eastern corner of the site, on an area of higher ground. As the ground raises towards this corner of the site. The external dimensions of the dwelling excluding the colonnade are 21.8m x 21.8m, including the colonnade are 23.8m x 23.8m. The external dimensions of the enclosure including the piazza but excluding the colonnade are 41.8m x 21.8m. The height of the building is to be 3.5m.
36. The proposed dwelling is to contain four large bedrooms and living area, all situated around an internal courtyard, that has a roof that opens. To the north east of the dwelling is an external area of parking and then a garage with ancillary space for the main dwelling. There is to be a total of five parking spaces. Therefore creating two buildings on the site to create the dwelling.
37. Along the north eastern flank boundary of the parking area is proposed to be a CorTen screen. Within the parking area is a water garden that crosses the primary entrance of the dwelling and then into the wider landscape.
38. Surrounding the building there are multipul doors and windows. On the south western elevation there are “fins” that will provide screening to the windows and doors on this elevation.
39. The proposed materials of the building and the boundary treatments are to be
  - CorTen self weathering steel structural frame and wall cladding
  - Raised seam zinc panels with integrated thin film photovoltaic solar collectors
  - Powdercoated aluminium window frames to colour RAL 7043
  - Aluminium and wood doors to RAL 7043
  - Permeable paving to the new access lane comprising an eco grid structure and granite aggregate. Hardstanding is natural Limestone paving
  - Low level downward facing LED light fittings
  - Additional boundary treatments including natural hawthorn and mixed variety hedges – as exisiting
40. Within the landscaping of the site there is to be a new residential garden, a Ditch/rill, Wet woodland, retained and new planting. Along with boundary treatments to both the River Shep banks and Guilden Brook.

### **Planning assessment**

41. The key considerations in this application are:
  - Principle of Development
  - Character and Appearance of the Area
  - Residential Amenity
  - Ecology
  - Drainage
  - Highways

## Planning balance and conclusion

### Principle of Development

42. Policy S/2 of the adopted South Cambridgeshire District Council Local Plan 2018 states the objectives of the Local Plan. Part b) of the policy states that developments will aim to protect the character of South Cambridgeshire, including its built and natural heritage. New development should enhance the area, and protect and enhance biodiversity. Part c) of the policy ensures that land for housing is in sustainable locations that meets local needs and aspirations. Finally part d) aims to deliver new developments that are high quality and well-designed with distinctive character that reflects their location, and which responds robustly to the challenges of climate change.
43. This application is not located in a Development Framework Boundary as defined by Policy S/7 of the adopted South Cambridgeshire District Council Local Plan 2018 and therefore is located in the Countryside.
44. Policy S/7 part 2, allows for the development in the countryside where it meets the following exceptions;
  - Allocations within a Neighbourhood plan
  - Development for agricultural, forestry, outdoor recreation and other uses that need to be located in the countryside.
  - Where supported by other policies in the adopted South Cambridgeshire District Council Local Plan 2018.
45. This application has been submitted on the basis of being a dwelling in the countryside of exceptional quality, therefore Policy H/15 of the adopted South Cambridgeshire District Council Local Plan 2018, is to be applied to the application.
46. In addition, Paragraph 79 e) of the National Planning Policy Framework allows for the development of a dwelling in the Countryside where it is considered to be of exceptional quality and it meets the following criteria:

*“the design is of exceptional quality, in that it:*

  - *is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and*
  - *would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area. “*
47. Subject to the criteria of the policy being met the application will be considered as acceptable in principle and in accordance with Policies S/1, S/7 and H/15 of the adopted South Cambridgeshire District Council Local Plan 2018 and the NPPF paragraph 79 e). This is to be considered below, in the rest of the Committee Report.

## Character and Design

48. This application has been submitted under Policy H/15 of the adopted South Cambridgeshire District Council Local Plan 2018 and the NPPF paragraph 79 e). The issue is therefore whether the proposed development can be justified as being in accordance with the above and which would justify a departure from the spatial strategy.
49. Policies S/2, HQ/1 and NH/2 in the adopted South Cambridgeshire District Council Local Plan 2018 are also applicable to this application which ensure that there is a high quality of design that has a bulk and scale that respects the character of the area that it is to be situated. Taking into account important natural and built forms, whilst enhancing and retaining local character and distinctiveness of the landscape.
50. The NPPF refers to how design can be considered in a planning application and how it should be considered. Paragraph 124 refers to the creation of high-quality buildings and places, good design is a key aspect of sustainable development. Paragraph 127 sets out the detail of what decisions should consider as good design. Paragraph 128 says that design quality should be considered throughout the evolution and assessment of individual proposals and early discussions are important. Where there is access to tools and processes (such as design workshops and design reviews) for assessing and improving the design of development, Local Planning Authorities should use them, in accordance with Paragraph 129.
51. Where an application has failed to improve the character and quality of an area and the way it functions it should be recommended for refusal, in accordance with Paragraph 130, however, the same paragraph also states that where the design of a development accords with clear expectations in plan policies, design should not be used by as a valid reason to object to development.
52. Paragraph 131 states that great weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.
53. The South Cambridgeshire District Council Urban Design Officer and Landscape Officers have both commented on the application, their comments are included in the below discussion on the application. The South Cambridgeshire District Council Urban Design Officer Comments are in Appendix 1 of this committee report.

### Truly Outstanding and Innovative:

54. Policy H/15 part a) states:  
*The dwelling would reflect the highest standards in architecture, being recognised as truly outstanding or innovative;*
55. The NPPF Paragraph 79 e) part 1 states:

*is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and*

56. In regards of the design of the application of this nature it is understood that there is a high bar that needs to be met and for both the Local Plan Policy and the NPPF.
57. The supporting information describes the concept of the proposed dwelling as “The concept is essentially for a single entity incorporating all the essential amenities for a country dwelling, expressed within a simple monolithic form both unified and homogeneous, rather than the more common style expressed in a range of building forms.”
58. To ascertain an understanding if this bar had been met, this application was reviewed by the South Cambridgeshire District Council’s Design Enabling Panel (DEP) on the 19<sup>th</sup> November 2020 (Appendix 2) and then again on the 17<sup>th</sup> December 2020 (Appendix 3).
59. During the November meeting it was considered that the dwelling being presented was of high quality, but it had not met that bar of exceptional quality and further information was requested.
60. This was for the following reasons, summarised from the November report (Appendix 2). This was the fourth review of the scheme by the DEP and the scheme had moved on, and was further developed by following the previous discussions. Further details were requested on the structure, construction and the materials that are being used. Also dimensioned drawings of the dwelling and details on the flexibility of the internal layout and integration of services being proposed. Corten is to be heavily used in the development of the scheme, further information was requested on the details of how the structure is to work and the sustainability of the material that is to be used. How the rain water disposal and drainage is to be incorporated into the scheme. The panel at this point was not able to endorse the scheme.
61. Further information was provided in Volume 4 and presented to the DEP in the December meeting (Appendix 3). Some minor concerns were raised regarding how the Corten Panels are going to be joined together and that a full sized trial panel should be erected with the complete external wall build up, detailing to demonstrate the robustness of the concept, which would be provided through a condition.
62. DEP members concluded at the end of the second meeting that they were confident that the applicant, who is also an architect and would be the owner of the dwelling, will seek and can deliver the highest standards of design detail. The scheme has been considered by the DEP to have reached the standard required to satisfy Paragraph 79 e) of the NPPF and Policy H/15 adopted South Cambridgeshire District Council Local Plan 2018.
63. As demonstrated in Volume One of the Design and Access Statement submitted as part of the application, the design has been through a series of design

development. Which has been influenced through the various iterations at the DEP and through the pre-application process with South Cambridgeshire District Council Planning Officers and Urban Design Officer. The document explores how different built forms, based on classical architectural proportions, would respond to the site context, underpinned by the concept of achieving a minimalist modern design. There is evidence of rigour in the design evolution process.

64. The proposed house would form part of a small, slightly dispersed cluster of buildings which include the existing Mill Farm, Mill House and Springfields, along the north eastern boundary, where it is closely related to. It is therefore not an isolated building, but an addition to the small cluster of buildings with a consistent modern architectural character.
65. The geometry of the proposed house and its landscape setting have been designed as one, this is apparent in the following design ideas that have through the evolution of the building:
  - the siting of the building just above the level of the wetland (as a bird hide would relate to a wetland within a nature reserve);
  - the alignment and design treatment of the building axes as they extend into the landscape;
  - the approach to the building along the drive;
  - the interfaces between the building and the landscape.
66. The approach and access to the house would provide an element of surprise. The rationale of introducing visitors and vehicles into the piazza via a curved access route through the landscaped space is supported, as this would create an interesting spatial experience and a strong sense of arrival. Both through the natural environment and the additional planting and landscape features that are being proposed.
67. The entrance through an enclosed courtyard from the access road would provide an element of enclosure. Which then leads to an open plan space within the dwellings and carefully framed views that provides further drama. This is onto the proposed ornamental pool in the piazza, rainwater collection from the building and the open water 'rill' in the landscape are linked into a single system and form a symbolic river across the site. The Views within the dwelling would be across the informal park land and meadows to the north of the site and western boundary of the dwelling. The created wet grassland in the southern part of the site, which is crossed by the ditch/rill to create an open area of water, this then leads to a wet woodland area along the western and southern boundary of the site along Guilden Brook. It has been proposed in the application that there are sculptures within the site, this is located along the ditch/rill.
68. The built form and layout whilst large display rigour, symmetry and simplicity. The concept is essentially for a single entity incorporating all the essential amenities for a modern dwelling, expressed within a simple monolithic form. The Urban Design Officers welcome the clear expression of the house through the use of a unitary enclosure with a simple internal layout. Officers also welcome the use of simple construction methods and modern techniques to achieve a refined and considered piece of architecture. Details of which have been refined and

explained through the further submissions on this application, as part of the DEP review process.

69. The internal planning is well considered and clearly illustrates the concept of rooms set in a natural landscape. The plan of the dwelling is a simple symmetrical form which has been informed by the classical plan of the Villa Rotunda. The proposed central winter garden court relates well to the surrounding living spaces and would provide a pleasant amenity space; this 9m square space has its centre part being openable to the sky. The proposed layout responds to the sun's movement around the building. The external colonnade and loggia are located on the South East and the South West elevations of the dwelling where the structure is able to contribute to solar shading while at the same time complementing the adjacent living spaces.
70. Policies S/2 and H/15 and the NPPF detailed above both refer to the dwelling needing to be innovative. The application has been commented on by the South Cambridgeshire District Council Sustainability Officer. Parts of this proposal include an energy nanogrid, which links together photovoltaic panels, heat pumps (ground and air source pumps), battery and thermal storage. The design and location of the features detailed above are of a design that will be part of the dwelling and not highly visible. The South Cambridgeshire District Council Sustainability Officer has stated that the nanogrid approach, will exceed the Council's requirement for a 10% reduction in energy using onsite renewable energy by some margin. This is accepted and it is recommended that a condition is applied to the application to secure implementation of the nanogrid.
71. With regards to the wider approach to sustainability, it is noted that some consideration has been given to building materials. It is proposed to utilise a high proportion of cement replacement ground granulated blast furnace slag (GBBS) to lower the embodied carbon of the concrete used in the project. While steel has high embodied carbon, the use of corten steel is a more sustainable option as its corrosion resistance means that carbon intensive coatings can be avoided throughout the life of the project giving it a long lifespan and a greater potential for recovery and reuse or recycling. The South Cambridgeshire District Council Sustainability Officer also welcomes the adaptability that has been designed into the internal structure of the dwelling, allowing for the layout of the building to be more easily changed in the future.
72. The design of the external colonnade and loggia on the south east and south west elevations also has a climate related role, in that in addition to providing visual screening, it also provides solar shading. The spacing allows for solar gain in the winter but helps to limit internal solar gains in the summer months.
73. With regards to water efficiency and meeting the requirements of policy CC/4, a range of measures are proposed including best practice water efficiency measures and rainwater harvesting. The Energy and Sustainability Statement references a 25% reduction in water use, with a total per day water use of 470 litres, which equates to water use of 94 litres/person/day on an occupancy of 5 people. This approach, which provides a greater level of efficiency than that required by policy CC/4 is welcomed. Through further submissions of documents

during the application process, details have been given on the location of the heating coils which are to be located in the building zone which will help to minimise the impact on the wider landscape. Details have been provided on the the layout of infrastructure for elements including the Mechanical Ventilation with Heat Recovery system, the rainwater harvesting system and the drainage system, which are all acceptable in meeting the aims of Policies CC/3 and CC/4 of the adopted South Cambridgeshire District Council Local Plan 2018.

74. It is recommended by the South Cambridgeshire District Council Sustainability Officer that a condition to require submission of the detailed water efficiency specification is submitted prior to occupation and the details in Design and Access Statement Volume 2, Appendix 7: Energy and Sustainability, Poulson Architecture, July 2020, shall be fully installed and operational prior to the occupation of the development and thereafter maintained.
75. In regards of the innovative elements of the design it would provide a greater level flexibility to the internal layout and allows it to be modified to meet the needs of the occupants, this is demonstrated through the Lifetime homes diagrams (16 criteria). All the primary living areas are planned as a single volume with freestanding furniture, book stacks and storage elements which may be re-arranged at will.
76. Neighbour comments have been provided on the application, it has been stated that this is not the vision of an exceptional country house and it is not what could be either called a bird hide.
77. The design rational has been provided as part of the application process and the evolution of the design, one of the concepts that has been considered is the traditional country house, which have a nod to vistas, access along the extensive driveway to the dwelling where the dwelling is revealed. Which has been considered as part of this application in the details that have been submitted.
78. In regards of the name of the dwelling, this is subjective and up to the applicant and owner of the site. There is no comment on the name of the site.
79. On balance of the details above and the submitted information it is considered that the house is considered to be of a high-quality minimalist design that reflects the design philosophy of Mies van der Rohe – Form follows function, responding well to the site context. It has met the bar of Policy H/15 part a) and NPPF paragraph 79 e) part 1. That the design of the dwelling is truly outstanding and innovative. Urban Design Officers consider the these design features, collectively, would create a design that is truly outstanding and innovative, and represents the highest standards in architecture. The sustainability of the building also exceeds the Policies in the Local Plan. The conditons that have been proposed by the consultees are to be applied if recommended for approval.

#### Setting and Character of area

80. Policy H/15 part b) states:  
*The dwelling would significantly enhance its immediate setting*

81. Policy H/15 part c) states:  
*The nature and size of the site, and the design of the dwellings, its landscaping and location on site are sensitive to the defining characteristics of the local area and to wider views.*
82. The NPPF Paragraph 79 e) part 2 states:  
*would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.*
83. At National Level the site is situated within the National Landscape Character Area (NCA) 87: East Anglian Chalk. As defined within the Character Areas the area has a strong rural character with a distinctive landform of smooth rolling chalk hills and gently undulating chalk plateau. A few isolated farm buildings are sited at track ends, often hidden by groups of mature trees or shelterbelts.
84. At local level the site is situated within The Chalklands as assessed by SCDC within District Design Guide SPD March 2010. The site lies in an area which has no specific local designations and as such does not fall within the scope of valued landscapes under Paragraph 170 of the National Planning Policy Framework. The site is located outside the existing village development framework boundary and does not form part of the Greenbelt.
85. The application site is located along a rural road between the villages of Melbourn and Fowlmere. The field that is to contain the proposed development is an open meadow with a variety of native trees and aged spruces. The ground is considered to be uneven and has areas of wetland due to the highwater table. To the south of the site is the RSPB managed SSSI.
86. There is to be a sweeping driveway that allows for the gradual reveal of the building and the landscape, the driveway then straightens as it approaches the building, this is the creating of a sense of arrival that is being proposed as part of this application. Which is the element of a country estate that has indicated in the application, and according to the applicant has been brought up to date through the design of the building and the landscaping around the site.
87. The submitted Volume 5 of the DAS, indicates the landscape strategy that would integrate the proposed house into the landscape and enhance the natural characteristics of the site. The landscape strategy proposes for nine zones is well considered and would create a design that is sensitive to the defining characteristics of the local area:
- Zone 1 Informal parkland and meadows.
  - Zone 2 New dwelling and domestic landscape.
  - Zone 3 River Shep banks. Unaltered except for a small number of new trees and shrubs along top of the bank.
  - Zone 4 Small copse to extend Nature Reserve and define corner of the site.
  - Zone 5 Scrapes to create wet grassland and seasonal standing water to give habitat diversification and enhance wetland setting to dwelling.
  - Zone 6 Ditch/rill to create area of open water for species diversification and to link dwelling to the landscape via a formal viewline.

- Zone 7 Wet woodland, retained new planting and grassland mosaic.
- Zone 8 Guilden Brook. Plans to conserve the chalk stream to improve the habitat for native wild trout and river bank diversity.
- Zone 9 Access Lane on low embankment with grass verges

88. The 'Hide' proposal is informed by the earlier design studies but also on the suggestion by the DEP, to discover an architectural form for the basic concept within the defining characteristics of the site and the local area. The site is wetland and chalkland adjoining the RSPB Nature Reserve and there is a clear correlation between the aims of a bird hide and the aspiration for a dwelling, placed within the natural landscape, where the occupants would be able to enjoy the panorama of the landscape, but hidden within the landscaping and the siting of the building.
89. It has been stated in the supporting information of the application that there should be a relationship between the building and the garden and the neighbouring RSPB site. All of which would be visible and have specific sight lines through the development.
90. The wetland landscapes within the site are design to mirror the RSPB site and habitats, through the management of these areas of the site it is expected that the habitats would become more diverse and reflective of the wild habitat of the neighbouring RSPB site. The direr slopes that are closer to the house will be managed an unimproved grass land and further to the house and up the slope will be an area of orchard, vegetable and lawn. This would be in a form that reflects the main dwelling on the site.
91. The location for the building within the site is informed by the topography, the landscape characteristics, the ecology and the varying geology. The site selected for the proposed house is on the higher part of the land towards the Northern boundary and the principal stream of the River Shep (in Flood Zone 1), taking into account water levels.
92. The proposed house would enhance its immediate setting through the character and quality of its design, which is consistent with the character of the existing Mill Farm and Mill House, and the way it 'sits' in its immediate setting - a 'hide' overlooking the wetland habitats that are both to be created through this application and that of the neighbouring RSPB site. The external structure and cladding will be fabricated in Corten steel which will oxidise naturally to form a rust brown patina. Its recyclability and low maintenance requirements are justified through the information provided in Volume 5 of the DAS. Design Officers agree that the rustic colours of the Corten would relate well to the landscape character. The cladding material would complement the architecture and would significantly enhance the site's immediate setting.
93. The landscape enhancement will be achieved through the overall design concept and through enrichment of the landscape drawing on natural and cultural references within the local area. The proposals include an area of wetland to encourage bio-diversity to enhance the wildlife habitat, consistent with the aims of the adjacent RSPB reserve. In addition, the proposals would also include an

orchard and meadow to deliver a mosaic of diversity value for a sustainable development.

94. The design would significantly enhance its immediate setting through both the design of the proposed house and the landscape scheme, which includes habitats and cultural landscape references. The design responds well to the site topography. The proposal shows a sensitive consideration of the building and site levels, the approach and setting of the house, elevational treatment, ancillary spaces and landscape.
95. During the DEP meetings and reports it was considered that the application is sensitive to the location of the development and the building and site levels. The impact of the development was also considered on the setting of the landscape and the unity of building with the nature. There is a sense of order that is taken out into the landscape and how it enhances the site.
96. It has been raised by the Parish Council and the third party comments that the design of the application does not reflect the rural nature of the area and at best the proposed structure might possibly be considered to be sympathetic to the setting, but are strongly of the view that the development of this property could not be judged to significantly enhance the immediate setting. The proposed structure would also be out of keeping with the surrounding cluster of buildings and as such would not be sensitive to the defining characteristics of the local area.
97. The detail given above in regards of the justification of the building and how it conforms with the relevant policies have been supported by the Urban Design Officer and the DEP and how it has been thoroughly reviewed. It is understood that design is subjective and may be considered “marmite”. However, this decision has been reached the tools that are available, as required by the NPPF paragraph 129. When considering design schemes there should be the appropriate use of, tools and processes for assessing and improving the design of development. These are of most benefit if used as early as possible in the evolution of schemes. The application has been reviewed by the DEP four times, which has influenced the design of the building and its landscape.
98. It is considered that the proposal would respect, retain and enhance the local landscape character and comply with Policies S/2, NH/2 and HQ/1. Also the application would significantly enhance the site and be sensitive to the characteristics of the local area and comply with Policy H/15 of the Local Plan. This is subject to hard and soft landscape detail conditions that are to be applied to the application. Which has been confirmed by the South Cambridgeshire District Council Landscape Architect.

Policy H/15 part d)

99. It has been raised by the Parish Council and third party representations that the application does not comply with Policy H/15 as the land forms part of the curtilage of Mill Farm. Part d) of the policy states:

*That there are no existing dwellings on the site capable of being replaced under Policy P/14.*

100. As detailed on the submitted plans this dwelling would have its own redline and therefore curtilage that is separate from Mill Farm. The Curtilage of Mill Farm was defined through the planning application that allowed that dwelling. Also due to the separation of this development from Mill Farm, through the new access and separation of boundary treatments would be considered as a new dwelling and part of its own site.
101. In summary, this application would meet the requirements of Policy H/15 and Paragraphs 79, 128, 129, 130 and 131 of the NPPF the proposal would be of an outstanding quality and of an innovative design.
102. Unlike other Paragraph 79 houses that have received planning permission but was never built due to misalignment on cost and design intent, in this application, the applicant has given officers the confidence that the proposals are achievable, with the applicant showing previous experience of delivering high-quality design, and the commitment the applicant has given to developing the current proposals with officers and his team of specialists.
103. The conclusions of the independent design review body DEP, that the proposals have reached the standards required by Paragraph 79e of the NPPF, should be taken into account and be given significant weight in the consideration of this application, as per the objective of Paragraph 129 of the NPPF. In addition, great weight should be given to the outstanding and innovative design of the proposals as per the objectives of Paragraph 131 of the NPPF, thus justifying a departure from the spatial strategy in this instance.
104. Due to the nature of the development and the high quality that is being achieved through the proposal, it is recommended that the following Permitted Development Rights as detailed in the Town and Country Planning (General Permitted Development) Order 2015, Schedule 2 as detailed in the are removed from the development:
  - Part 1
    - Class A - enlargement, improvement or other alteration to the dwelling
    - Class AA – Additional Storey
    - Class B - enlargement consisting of an addition to the roof
    - Class C - alteration to the roof
    - Class D - erection of a porch
    - Class E - provision of any building or enclosure
    - Class F - any hard surface
    - Class G - provision of a chimney, flue, soil or vent pipe
    - Class H - installation, alteration or replacement of an antenna
  - Part 2
    - Class A - erection, construction, maintenance or alteration of a gate, fence, wall or other means of enclosure

## Residential Amenity

105. In regards of residential amenity both of the future residents of the site and the neighbouring residents of the site each of the plots are to be assessed below. This will be in regards of Policy HQ/1, H/12 and the District Design Guide.
106. Policy HQ/1 states in part n) that the proposal would not create overlooking to the neighbouring properties, nor would it create a dominating effect. It also requires the development not to have a harmful effect on the amenity of the future residents of the site. Paragraph 127 f) of the NPPF states that there should be a high standard of amenity for future and existing users.
107. The bedroom spaces are the following
- Study / bedroom 4 17m<sup>2</sup>
  - Bedroom / dressing room 41m<sup>2</sup>
  - Master bathrooms 11m<sup>2</sup>
  - Bedroom 2 13m<sup>2</sup>
  - Bedroom 3 13m<sup>2</sup>
108. All of these bedrooms meet the requirements of Policy H/12. In regards of the internal floor space of the whole dwelling this is 417m<sup>2</sup> and therefore exceeds the 74m<sup>2</sup> that is required in accordance with Policy H/12 of the adopted South Cambridgeshire District Council Local Plan 2018.
109. Paragraph 6.68 of the Council's District Design Guide details that to prevent the overlooking of habitable rooms to the rear of residential properties and rear private gardens, it is preferable that a minimum distance of 15m is provided between the windows and the property boundary.
110. The main dwelling is approximately 23m away from the north eastern boundary at the closest point and 38m at the furthest point as it is set at an angle from the boundary of the site. On this elevation of the dwelling are the windows for bedrooms 2 and 3, these will be the only windows for these rooms. Also a window for the dressing room of bedroom 1. As this is greater than the 15m required by the Design Guide between the dwelling and the property boundary. None of the other distances are considered to be applicable as the dwelling is 3.5m in height and therefore not a two storey property.
111. There will be some glimpses of the property from Springfeild as this is the closest dwelling to the site, there is landscaping proposed between the dwelling and the neighbouring property, this is to be further conditioned and therefore will lead to further control. Due to the height of the property and the further rise of the land to the rear of the site and the neighbouring property it is considered that these glimpses would be minimal.
112. Concerns have been raised in regards of the harm that would be caused between the new dwelling and the agricultural buildings that are located within land under

the ownership of the neighbouring property. The dwelling would be located at a reasonable distance away from the boundary of the site to not result in any significant adverse impacts upon the amenity of this neighbouring property. The applicant is fully aware of the neighbouring property and the agricultural unit that is used in association with the farming activities on the neighbouring site. As the dwelling is within the countryside, it is expected to have countryside activities located within the near vicinity and therefore this is not a reason to refuse the application on these grounds. Despite this, the distance between the dwelling and the agricultural unit within the neighbouring site is approximately 50m which is considered to be a reasonable distance away to not result in any significant harm upon the amenity of the proposed dwelling.

113. In regards of the other way around, it is also considered to be minimal as the separation distances are between 23 and 38m away. Also the windows on the flank elevation facing the agricultural unit are small and would not create a large light spill. As this is only one dwelling the noise impact would also be minimal also.
114. On that basis it is considered that there would be no harm to the future residents of the site and the neighbouring residents. The application is therefore considered to be in conformity with Policies HQ/1 and H/12 of the adopted South Cambridgeshire District Council Local Plan 2018 and paragraph 127 f) of the NPPF.

### **Highway Safety and Parking Provision**

115. The application is to create a new access to the proposal site from Fowlmere Road, which is along the western side of this boundary with the main highway. There is to be the removal of a part of the mature hedge and a tree to be able to accommodate the proposed access.
116. Details have been provided in the application and the supporting documents in regards of the visibility splays that can be provided, the access onto the site and additional speed surveys, are in volume 1.
117. These have been reviewed by the County Council Highways Authority Officers, who have considered that the visibility splays are acceptable along with the speeds along the road. They have stated that there have been no plans detailing the design and construction of the access onto Fowlmere Road.
118. On that basis it has been recommended that the following conditions are to be applied to the application, subject to the application being recommended for approval:
  - Width of the access
  - detailed engineering scheme of the access
  - Drainage measures of the access
119. Further information has been provided on the access in the additional information that has been submitted through the application process. It has been stated by the Highways Officer that the details of the materials that are to be used in the

public highway are not acceptable and therefore would still need to be provided in the detailed engineering scheme of the access, as previously requested therefore a condition is still required.

120. In regards of the parking that is being provided on the site, there is sufficient room for several vehicles to park in the front of the house and the proposal provide undercover parking for 5 cars, it is therefore considered to meet the requirements of Policy TI/3 of the adopted South Cambridgeshire District Council Local Plan 2018. This policy requires the provision of two parking spaces for the dwelling. It is acknowledged that this is an overprovision of car parking however, policy TI/3 states that the minimum standards are indicative only and therefore officers do not consider this to be a reasonable reason to refuse the application in this instance.
121. On that basis and subject to conditions it is considered that the application is acceptable in regards of the Highways Matters.
122. Matters have been raised by the Parish Council in regards of the following, matters:
  - Construction traffic,
  - Location of the access,
  - Location of footpaths,
  - Conformity with Policy TI/2 of the adopted Local Plan.
123. In regards of the Construction traffic it is recommended that a Traffic Management Plan is conditioned to ensure that it is submitted prior to the commencement of the development on the site.
124. The location of the access has been agreed by the Local Highways Authority and it has been considered to be acceptable in this regard and the details have met the requirements of safety both of the adopted Local Plan and the NPPF.
125. The Parish Council has raised the concerns with the conflict with TI/2 as there is no footpath and the development will be highly reliant on car travel which is not in accordance with sustainable travel as identified by the above Policy.
126. It is agreed that there would be some conflict with Policy TI/2 as there would be no footpath created by this development as there is no space to do so. However, on the application side of the road there would be no space and there is no footpath that runs alongside the road to link this development to. Also the material increase in travel demand is to be considered as part of the policy and the supporting text. The increase is considered to be minimal as it is for one additional dwelling. Therefore there is some conflict with Policy TI/2 as detailed by the Parish Council but due to the constraints of the site this cannot be overcome and the development therefore on balance is considered to be acceptable on this matter.

## Drainage and Flooding

127. Running along the north eastern boundary is the River Shep and along the south west boundary of the site is Guilden Brook. The proposed dwelling is located within Flood Zone 1 but in close proximity to Flood Zones 2 and 3. Flood Zones 2 and 3 are located to the south and east of the site, predominantly where the access is to be located and the garden area. The land rises towards the eastern boundary and the common boundary with Springfields.
128. The NPPF paragraph 163 ensures that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Applications should be supported by a site-specific flood-risk assessment. Developments should only be allowed in areas of flooding where, the most vulnerable development is located in areas of lowest flood risk. The development is appropriately flood resistant and resilient and it incorporates sustainable drainage systems. If there is any residual risk it can be safely managed and safe access and escape routes are included where appropriate, as part of an agreed emergency plan.
129. The supporting information that has been submitted as part of this application includes the drainage and flooding information, which has been reviewed by the South Cambridgeshire District Council Sustainable Drainage Engineer and the Environment Agency (EA).
130. The South Cambridgeshire District Council Sustainable Drainage Engineer has commented on the application in light of the information that is contained in the supporting information. A condition has been recommended for finished floor levels and site levels. Policy CC/9 of the adopted South Cambridgeshire District Council Local Plan 2018 states that in order to minimise flood risk, development will only be permitted where floor levels are 300mm above the 1 in 100 year flood level plus an allowance for climate change where appropriate and where appropriate and practicable also 300mm above adjacent highway levels. It is not clear if the finished floor levels (FFLs) are above this level therefore this condition is to be applied to the application if it is to be recommended for approval.
131. The Environment Agency has no objection to the application in principle subject to conditions and informatives, that have been recommended. The submitted Flood Risk Assessment (FRA) has been reviewed and is considered to be acceptable for the scale and nature of the proposed development.
132. The submitted FRA demonstrates that the proposed dwelling is located within Flood Zone 1 but in close proximity to Flood Zones 2 and 3. There are proposed to be raising of the floor levels, flood resilient measures should be incorporated into the design of the proposed dwelling to ensure the dwelling remains safe for its lifetime. It is recommended that this is conditioned as part of the application, informatives have been applied to the application in respect of the above.
133. The Environment Agency have also commented on the Pollution Prevention as part of the application. The energy centre that is being provided as part of this application which includes ground source heat pumps, air source heat pumps and

solar panels to generate energy. Excess energy will be stored in batteries for use when supply is not available. Suitable protection measures should be considered to protect against fire, the spread of fire and the collection and containment of polluting firewater in the event of a fire. On that basis a condition has been recommended for the pollution control of the above.

134. In regards of the connection to foul water drainage it has been stated by the EA that other than very exceptionally, providing non-mains drainage as part of the Planning or Building Regulation application will not be allowed unless it can be proven that a connection to the public sewer is not feasible. Non-mains drainage systems are not considered environmentally acceptable in publicly sewered areas. Please note that the existence of capacity or other operating problems with the public sewer are not valid reasons for non-connection where this is reasonable in other respects.
135. Where connection to the public sewer is feasible, agreements may need to be obtained either from owners of land over which the drainage will run or the owners of the private drain. The applicant should be aware of their responsibility to maintain the system to the manufacturer's requirements and environmental regulations. Informatives have been included in regards of the above comments.

## **Ecology**

136. Fowlmere Nature Reserve is located along the southern boundary of the development site and is designated Site of Special Scientific Interest (SSSI), which is managed by the RSPB, representing one of the few remaining relic fen habitats. Its provision of various habitats has led to a diverse richness of birds for which the site is noted. The former watercress beds provide valuable feeding areas for ducks and migratory waders, and the reedbeds and scattered scrub provide nesting and breeding habitats for warblers including blackcap, green warbler, white throat and lesser white throat. The site is managed for its reedbed, fen, chalk grassland and scrub, which are home to breeding turtle dove, water rail and barn owl, with reed bunting roosting over winter.
137. Natural England have commented on the application and have directed the Local Planning Authority to Natural England's Impact Risk Zones (IRZ) and how development can put additional pressure on SSSI's. This development is next to the Fowlmere Watercress Beds which is in a Higher Zone of potential risk. The guidance that has been submitted with the Natural England comments refers to when a development can be screened out and the overall impact can be mitigated against. This would be 50 dwellings and if in the LPA, a smaller proposal closer to a SSSI(s) is considered likely to have significant effect, impacts should be assessed.
138. This application is for one dwelling on land that is currently managed by the owner of the site the site currently consists of grassland, wooded areas, wooded boundaries, and standing trees. The RSPB have commented on the application and they have no objection to the proposal and welcome the biodiversity measures that are being proposed as part of the application and welcome the idea of buffering and enlarging the reserve's wetland landscape, there is the

potential for any habitat creation and later management to have implications on the reserve. The RSPB would like to be consulted on the habitat management plan, which is due to be agreed with Natural England and South Cambridgeshire District Council to ensure no negative impacts occur on Fowlmere Nature Reserve (SSSI).

139. Therefore on that basis it is considered that the development of one dwelling can be mitigated against and the impacts on the SSSI's would be minimal and the landscaping and biodiversity improvements that are being recommended are acceptable on that basis.
140. the Preliminary Ecological Appraisal V003 (MKA Ecology, October 2019), Reptile Survey report (MKA Ecology, October 2019) and letter dated 1 November 2019 from MKA Ecology (bat survey findings) have been submitted as part of this application and reviewed by the South Cambridgeshire District Council Ecology Officer. They have stated that there is no objections to the application subject to the following conditions.
  - Construction Environmental Management Plan (Biodiversity) (CEMP)
  - Habitat Creation and Management Plan
  - External Lighting
141. The Ecology surveys remain valid for 18 months to 2 years before planning decisions; the survey findings are acceptable in this instance, even though the surveys were completed at the end of the survey window. The surveys confirm that the site comprises predominantly regularly mown and less frequently mown/longer species-poor semi-improved grassland. There are also hedgerows, scattered trees, a small area of plantation woodland, tall ruderal habitats and adjacent woodland to the south-east.
142. The submitted reptile survey did not find evidence of any reptiles (or amphibians) using the site, although the precautionary approach to works is welcomed and will need to be secured by condition.
143. The submitted bat activity survey identified use of the northern boundary of the site by at least four species (common and soprano pipistrelle, brown long-eared and noctule bats). A sensitive lighting scheme will need to be secured and is conditioned.
144. There are several additional surveys identified in the PEA which have not been completed, although some may no longer be necessary as follows:
  - 1) Breeding bird surveys: much of the trees and boundary vegetation will be retained with species-poor grassland being the predominant habitat within the development. Therefore, lack of detailed breeding bird surveys, given no net loss and net gain of habitat, is acceptable.
  - 2) Bat tree roost assessment: Only four trees will be removed. None of these trees were identified in target notes as being of particular suitability for roosting bats. All identified trees with bat roost potential will be retained. A detailed tree assessment for roosting bats is no longer required.

3) Great crested newt survey: An eDNA assessment was recommended for a pond within 50m of the site. This does not appear to have been completed despite opportunities at a suitable time of year since the baseline survey. On balance, it is not considered 'reasonably likely' that GCN will be present and impacted because there are no records for the species within 1km including on the adjacent SSSI and the pond scores 0.53 i.e. 'Below Average' suitability in a Habitat Suitability Index assessment. In addition, no GCN were found under the 196 refugia during the reptile survey. It may still be prudent to complete the eDNA assessment or further investigations to confirm absence but surveys are only required to inform planning decisions if there is 'reasonable likelihood' of presence and impacts. The precautionary methodology for reptiles will also avoid an offence being committed in relation to GCN and further information can be secured through the CEMP.

4) Water vole surveys: The agent has confirmed that these have been completed and no evidence of water vole was found. However, evidence from an ecologist/survey report has not been provided. Water vole surveys are usually only required if there will be works within 5-10m of suitable watercourses. Therefore, providing a standoff zone of at least 5m and ideally 10m can be provided, detailed survey information is not required in this instance. The stand-off zone or a pre-commencement survey should be secured by condition.

145. Otter, hedgehog and brown trout are also likely to be present. Habitat creation will include creation of reedbed, open water, orchard and species-rich meadow/calcareous grassland.
146. The proposals also involve installation of at least 15 bird boxes, an artificial otter holt, log piles and bug bricks. Inclusion of integrated bat roost/bird nesting features in the building are requested to meet South Cambridgeshire District Council's Biodiversity SPD. The site should achieve net biodiversity gain in accordance with NPPF paragraph 170, 174, and 175, the Adopted South Cambridgeshire District Council Local Plan Policy NH/4 and emerging UK Government Policy.
147. The River Shep and the Guilden Brook (chalk stream) which are of ecological importance, border the site to the south-west. These habitats are not designated in their own right but are directly linked to County Wildlife Sites and the adjacent Fowlmere Watercress Beds SSSI. Therefore, a stand off zone of at least 5m and ideally at least 10m from these features will need to be retained, including no access or storage of waste or materials during construction, with no pollution from discharge to this watercourses. This standoff zone will be included in the condition request of a Construction Environmental Management Plan. Any landscaping within the buffer areas will need to be very carefully considered; for example, over shading by additional tree or shrub planting may deter use by water vole.
148. The Habitat Creation and Management Plan will need consultation with the RSPB and the Wild Trout Trust in relation to enhancements to watercourses and the neighbouring RSPB site.

## **Landscaping and Trees**

149. The impact that this development would have on the landscaping it is considered that it would enhance the site and its surrounds, subject to the conditions that have been recommended by the Landscape Architect and Design Officer. Which has been discussed above.
150. In regards of other landscaping matters on the site is considered that a condition is applied to the application to ensure that the lighting can be ensure there is no harm to the ecology on the site and the wider design of the scheme, as this can have an impact on the design of the site.
151. The South Cambridgeshire District Council Trees officer has commented on the application. There is no objection to the application subject to the following conditions
  - Arboricultural Method Statement and Tree Protection Strategy
  - Planting details of replacement trees for those lost to facilitate development.
  - That the boundary hedgerows be retained in perpetuity.
152. The trees on the site have no legal protection through Tree Protection Order (TPO) & no statutory protection. The hedgerows that are adjacent to the site and that will be removed as part of the access may qualify as important hedgerows under the Hedgerow Regulations 1997 and would therefore have statutory protection.
153. From the first comments from the South Cambridgeshire District Council Trees officer Volume 5 had been submitted which provides more detail on the application and appears to have answered some of the questions that had been raised at the time. The Officer has not commented on this additional, but the below recommendations are made in light of the previous comments and volume 5.
154. The Site compound, store, facilities and contractor parking the location, as previously requested by the officer will be provided in the traffic management plan that has been requested through a condition.
155. Volume 5 goes into greater detail in regards of the no dig road and the location of the services that are to be provided. Also the tree protection of the trees that would be within the service road. This is considered to an acceptable level of detail.
156. On that basis it is considered that the impact on the trees can be mitigated through the conditions that are being recommended.

## **Contamination**

157. On the South Cambridgeshire District Council GIS records there are no records of contaminated land adjacent to or within 500m of the site in the red line boundary. Therefore in regards of contamination of the site it is considered that it is

appropriate to apply a condition to the application to ensure that any unknown contamination to be reported to the Local Planning Authority, to be in conformity with Policy SC/11 of the adopted South Cambridgeshire Local Plan 2018.

### **Other matters**

158. Policy TI/10 requires that infrastructure be imposed to create access to broadband internet respectively; the application does not provide details of any of the above. It is therefore considered reasonable and necessary to impose a condition to require that the above policies are satisfied, if the application is to be recommended for approval.
159. It has been raised through the comments on this application about the applicants involvement within the DEP, who have provided comments on this application and their reports are in Appendix 1 and 2 of this Committee Report.
160. It has been confirmed by the South Cambridgeshire District Council Urban Design Officers who organise the DEP meetings that the applicant has never been a Chair or Vice chair of the DEP. If they are the chair or vice chair they receive an remuneration, which the applicant has not received, the rest of the Panel members support out DEP on a voluntary basis.
161. The applicant has only been invited to provide critique on two occasions on other schemes, and those two meetings took place two to three years before the application was submitted as a pre-application with the Local Planning Authority.
162. In the Terms of reference for the Panel Members, it states that the Panel Members can present their own schemes as long as they declare that they are a member of the DEP, there is no objection from the Panel, and that they do not sit on the same panel for obvious reasons.
163. Due to the large pool of designers/architects on the DEP panel, it is inevitable that they sometimes present their own schemes on behalf of their practice and client. It would be unfair to exclude them from presenting to our panel. Otherwise it would be difficult to invite any experienced architects to join the panel.

### **Conclusion**

164. Policy H/15 and NPPF paragraph 79 e) refer to dwellings in the countryside that are of exceptional quality that is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas Also it would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.
165. This application has been reviewed by the DEP on several occasions and the scheme now has their endorsement in regards of the standard of design.
166. The South Cambridgeshire District Council Urban Design Officer and Landscape Architect have no objections to the application and both have supported the

design of the development and the landscaping that is being proposed is acceptable and would enhance its setting.

167. There have been no objections to the application from the Consultees of the application and they have recommended conditions to the application, which are being applied to the proposal.

## **Recommendation**

168. Officers recommend that the Committee Approve the application, subject to the below conditions.

## **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 Plan 2018
- South Cambridgeshire Local Development Framework Supplementary Planning Documents (SPD's)

## **Appendix**

Appendix 1: Council Urban Design Officer Comments

Appendix 2: South Cambridgeshire District Council's Design Enabling Panel Report - 19th November 2020

Appendix 3: South Cambridgeshire District Council's Design Enabling Panel Report - 17th December 2020

## **Report Author:**

Jane Rodens - Senior Planning Officer  
Telephone Number - 07704 018 433

## **Recommended Conditions**

### **Time limit**

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.

### **Plans**

The development hereby permitted shall be carried out in accordance with the approved plans.

17<sup>th</sup> July 2020

Volume 1

Volume 2

6<sup>th</sup> August 2020

Location Plan

Tree Survey and protection plan

Topographical plans

Structural Layout

Site Plan and Landscape

Roof plan

Orientation and solar path

North South Section

House plan

Ground Level plan

Floor Plan of Piazza and Ancillary Areas

Volume 3

Elevations

Ecological Survey Plan

22<sup>nd</sup> February 2021

Volume 4

Volume 5

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

### **Materials**

No development shall take place above ground level, until details of all the materials for the external surfaces of building to be used in the construction of the development have been submitted to and approved in writing by the local planning authority. The details shall include the images, specifications and manufacturer of the materials. Development shall be carried out in accordance with the approved details.

Reason: To ensure the external appearance of the development does not detract from the character and appearance of the area in accordance with Policy HQ/1 of the 'South Cambridgeshire Local Plan' (2018).

### **Finished floor levels and site levels**

No development hereby permitted shall be commenced until finished floor levels (FFLs) and site levels, in accordance with South Cambridgeshire District Council local plan policies, have been submitted to and approved in writing by the local planning authority. The FFLs and site levels shall subsequently be implemented in accordance with the approved details before the development is occupied.

Reason: To reduce the risk of flooding to the proposed development and future occupants in accordance with Policy CC/9 of the adopted South Cambridgeshire District Council Local Plan 2018.

### **Pollution control – water**

The development hereby permitted shall not be commenced until such time as a scheme for the provision and implementation of pollution control of the water environment, including the disposal of foul and surface water has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved.

Reason: The site is located close to the river. The application states water from the development will be from a borehole and that waste water discharge will be via a package treatment plant and reed bed. The applicant will need to apply for a permit for the discharge of effluent from the treatment plant. The location of the treatment plant and borehole will need to be considered in conjunction with one another and any drainage field will need to be located 50m away from the proposed abstraction and preferably hydraulically down gradient

### **Sample Panel**

No development shall take place above ground level, until a sample Corten cladding panel of the dimensions 2.7m x 1m has been erected with the complete external wall build up detailing to demonstrate the robustness of the concept. The LPA shall be notified of the cladding panel and external wall build up once erected in order that an inspection can be carried out. This evidence shall then be submitted to and approved in writing by the Local Planning Authority. The approved sample panel is to be retained on site for the duration of the works for comparative purposes, and works will take place only in accordance with approved details.

Reason: To ensure the external appearance of the development does not detract from the character and appearance of the area in accordance with Policy HQ/1 of the 'South Cambridgeshire Local Plan' (2018).

### **Sculptures**

Prior to the submission of external materials condition, the details of the proposed permanent sculptures located to the SE and SW of the site shall be submitted to and approved in writing by the Local Planning Authority. The proposed sculptures shall either be provided in accordance with the agreed details prior to the occupation of the dwelling or in accordance with an agreed alternative timescale being no later than one year post occupation of the dwelling.

Reason - To ensure that the design of the sculptures is appropriate and would complement the house and the landscape in accordance with Policies HQ/1 and HQ/2 of the 'South Cambridgeshire Local Plan' (2018).

### **Doors, Windows and Rooflights**

No development shall take place above ground level, until details of all the doors, windows and rooflights to be used in the construction of the development have been submitted to and approved in writing by the local planning authority. The details shall include the images, specifications and manufacturer of the doors, windows and rooflights. Development shall be carried out in accordance with the approved details.

Reason: To ensure the external appearance of the development does not detract from the character and appearance of the area in accordance with Policy HQ/1 of the 'South Cambridgeshire Local Plan' (2018).

### **Pollution control**

The development hereby permitted shall not be commenced until such time as a scheme for the provision and implementation of pollution control of the water environment, including the disposal of foul and surface water has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved.

Reason: The site is located close to the river. The application states water from the development will be from a borehole and that waste water discharge will be via a package treatment plant and reed bed. The applicant will need to apply for a permit for the discharge of effluent from the treatment plant. The location of the treatment plant and borehole will need to be considered in conjunction with one another and any drainage field will need to be located 50m away from the proposed abstraction and preferably hydraulically down gradient. The Environment Agency will be pleased to assist in the assessment of proposals submitted by the applicant to meet these conditions.

### **Flood mitigation measures**

Prior to commencement of development, precise details of flood mitigation measures that are to be incorporated into the proposal shall be submitted to and agreed in writing by the Local Planning Authority. The approved details shall be incorporated prior to first use of the dwelling and shall thereafter be retained as such.

Reason: To ensure appropriate flood mitigation measures are in place and that the building is resilient to climate change.

### **Landscape - Arboricultural Method**

No development or other operation shall commence on site until a scheme (herein called the Approved Method Statement of Arboricultural Works Scheme) which indicates the construction methods to be used in order to ensure the retention and protection of tree, shrubs and hedges growing on or adjacent to the site has been submitted to and approved in writing by the Local Planning Authority.

No operations shall commence on site in connection with the development hereby approved (including tree felling, pruning, demolition works, soil moving, temporary access construction, or any other operation involving the use of motorised vehicles or construction machinery) until the tree protection works required by the approved scheme are in place on site.

The fencing or other works which are part of the approved scheme shall not be moved or removed, temporarily or otherwise, until all works including external works have been completed and all equipment, machinery and surplus materials removed from the site.

Reason: This condition is a pre commencement condition to ensure that the protected trees are not affected during construction of the development hereby permitted, in the interests of visual amenity and in accordance with Policies HQ/1, H/15, NH/2 and NH/4 of the adopted South Cambridgeshire Local Plan 2018.

#### **Landscape - Tree protection scheme**

No operations (including tree felling, pruning, demolition works, soil moving, temporary access construction, or any other operation involving the use of motorised vehicles or construction machinery) shall commence on site in connection with the development hereby approved until the branch structure and trunks of all trees shown to be retained and all other trees not indicated as to be removed and their root systems have been protected from any damage during site works, in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority.

The scheme shall include details of timing of events, protective fencing and ground protection measures. This should comply with BS5837.

The protective measures, including fencing, shall be undertaken in accordance with the approved scheme before any equipment, machinery or materials are brought on to the site for the purposes of development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made. No fires shall be lit or liquids disposed of within 10.0m of an area designated as being fenced off or otherwise protected in the approved scheme.

Reason: This condition is a pre commencement condition to prevent damage to trees during construction and to meet the requirements of Policies HQ/1, H/15 and NH/2 of the adopted South Cambridgeshire Local Plan 2018.

#### **Landscape - Details**

No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of hard and soft landscaping, which shall include the location of all existing trees and hedgerows affected by the proposed development, and details of those to be retained, together with a scheme detailing measures for their protection in the course of development.

All hard landscaping works required by the approved scheme shall be carried out and completed prior to the first occupation of the development hereby permitted. All soft landscaping works required by the approved scheme shall be carried out in accordance with a programme to be agreed before development commences and shall be maintained including the replacement of any trees or plants which die are removed or become seriously damaged or diseased in the next planting season with others of a similar size or species, for a period for five years from the date of the approved scheme was completed.

Reason: This condition is a pre commencement condition in the interests of visual amenity in accordance with Policies HQ/1, H/15 and NH/2 of the adopted South Cambridgeshire Local Plan 2018.

### **Habitat Creation and Management Plan**

A Habitat Creation and Management Plan shall be submitted to, and approved in writing by, the local planning authority prior to the commencement of development. The content of the Plan shall include the following:

- a) A location plan and specification for habitat creation and planting to benefit wildlife.
- b) A location plan and specification for species-specific habitat creation including bat and bird boxes, habitat piles and an artificial otter holt.
- c) Description and evaluation of features to be managed.
- d) Ecological trends and constraints on site that might influence management.
- e) Aims and objectives of management.
- f) Appropriate management options for achieving aims and objectives.
- g) Details of engagement with relevant stakeholders including the RSPB, Natural England and Wild Trout Trust as required.
- h) Prescriptions for management actions.
- i) Prescription of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- j) Details of the body or organisation responsible for implementation of the plan.
- k) Ongoing monitoring and remedial measures including programme of reporting to the LPA and/or other stakeholders.

The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

Reason: To protect nearby habitats and wildlife and to secure net gain for biodiversity in accordance with the NPPF, adopted South Cambridgeshire District Council Local Plan Policy NH/4 and Biodiversity SPD.

### **Construction Environmental Management Plan (Biodiversity)**

No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of “biodiversity protection zones” based on up-to-date survey information for habitats and protected and notable species including a plan showing at least 5-10m buffer areas by watercourses.

- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timings of sensitive works to avoid harm to biodiversity features.
- e) The times during which construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs and a plan showing their locations.
- i) Details of any construction lighting.
- j) Pollution prevention measures to protect the adjacent SSSI.

The approved CEMP shall be ahead to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: To comply with the requirements of the Wildlife and Countryside Act 1981 (as amended) and to protect nearby habitats and wildlife in accordance with adopted South Cambridgeshire District Council Local Plan Policy NH/4

#### **Detailed engineering scheme of the access**

Before the dwelling hereby permitted is occupied, the vehicular access from the existing carriageway edge shall be laid out and constructed in accordance with a detailed engineering scheme to be submitted to and approved in writing by the local planning authority, and such a scheme shall include the provision of a metalled/sealed surface for a minimum length of 5m from the existing carriageway edge.

Reason: In the interests of highway safety.

#### **Implementation of energy strategy**

The approved renewable/low carbon energy technologies and nanogrid approach (as set out in the Design and Access Statement Volume 2, Appendix 7: Energy and Sustainability, Poulson Architecture, July 2020) shall be fully installed and operational prior to the occupation of the development and thereafter maintained.

Where grid capacity issues subsequently arise, written evidence from the District Network Operator confirming the detail of grid capacity and a revised Energy Statement to take account of this shall be submitted to and approved in writing by the local planning authority. The revised Energy Statement shall be implemented development and thereafter maintained in accordance with the approved details

Reason: In the interests of reducing carbon dioxide emissions in accordance with Policy CC/3 of the South Cambridgeshire Local Plan 2018 and the Greater Cambridge Sustainable Design and Construction SPD 2020.

#### **Water efficiency**

The development hereby permitted shall not be occupied until a water efficiency specification based on the Water Efficiency Calculator Methodology or the Fitting Approach set out in Part G of the Building Regulations 2010 (2015 edition) has been submitted to and approved in writing by the local planning authority. This shall demonstrate that all dwellings are able to achieve a design standard of water use of no more than 110 litres/person/day and the development shall be carried out in accordance with the agreed details.

Reason: To ensure that the development makes efficient use of water and promotes the principles of sustainable construction (South Cambridgeshire Local Plan Policy CC/4 and the Greater Cambridge Sustainable Design and Construction SPD 2020).

#### **Implementation of energy strategy**

The approved renewable/low carbon energy technologies and nanogrid approach (as set out in the Design and Access Statement Volume 2, Appendix 7: Energy and Sustainability, Poulson Architecture, July 2020) shall be fully installed and operational prior to the occupation of the development and thereafter maintained.

Where grid capacity issues subsequently arise, written evidence from the District Network Operator confirming the detail of grid capacity and a revised Energy Statement to take account of this shall be submitted to and approved in writing by the local planning authority. The revised Energy Statement shall be implemented development and thereafter maintained in accordance with the approved details

Reason: In the interests of reducing carbon dioxide emissions in accordance with Policy CC/3 of the South Cambridgeshire Local Plan 2018 and the Greater Cambridge Sustainable Design and Construction SPD 2020.

#### **Water efficiency**

The development hereby permitted shall not be occupied until a water efficiency specification based on the Water Efficiency Calculator Methodology or the Fitting Approach set out in Part G of the Building Regulations 2010 (2015 edition) has been submitted to and approved in writing by the local planning authority. This shall demonstrate that all dwellings are able to achieve a design standard of water use of no more than 110 litres/person/day and the development shall be carried out in accordance with the agreed details.

Reason: To ensure that the development makes efficient use of water and promotes the principles of sustainable construction (South Cambridgeshire Local Plan Policy CC/4 and the Greater Cambridge Sustainable Design and Construction SPD 2020)

#### **Width of the access**

The access shall be a minimum width of 3.6m, for a minimum distance of 5m measured from the near edge of the highway boundary and not carriageway edge.

Reason: In the interests of highway safety.

#### **Drainage of the access**

The access shall be constructed with adequate drainage measures to prevent surface water runoff onto the adjacent public highway, in accordance with a scheme submitted to and approved in writing by the Local Planning Authority.  
Reason: To prevent surface water discharging to the highway.

### **Wi-Fi**

The dwelling hereby approved shall not be occupied until the dwelling to be occupied has been made capable of accommodating Wi-Fi and suitable ducting (in accordance with the Data Ducting Infrastructure for New Homes Guidance Note) has been provided to the public highway that can accommodate fibre optic cabling or other emerging technology, unless otherwise agreed in writing with the Local Planning Authority.

Reason – To ensure sufficient infrastructure is provided that would be able to accommodate a range of persons within the property and improve opportunities for home working and access to services, in accordance with policy TI/10 of the adopted South Cambridgeshire Local Plan 2018.

### **Lighting - No external**

No external lighting, other than that already permitted, shall be installed on the site or affixed to any buildings on the site unless the Local Planning Authority has first approved in writing details of the position, height, design and intensity. The lighting shall be installed in accordance with the approved details before the use commences.

Reason: In the interests of visual amenity and biodiversity and to meet the requirements of Policies H/15, HQ/1, NH/2 and NH4 of the adopted South Cambridgeshire Local Plan 2018.

### **Boundary- Retention**

The existing boundary treatments including the hedgerow and that proposed in the supporting information, shall be retained or if removed replaced by another hedge of a similar type and height for so long as the development remains in existence.

Reason: In order to safeguard the amenities of the occupiers of neighbouring properties and in accordance with Policies HQ/1, H/15 and NH/2 of the adopted South Cambridgeshire Local Plan 2018.

### **Removal of all PD rights**

Immediately following the implementation of this permission, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any other revoking and re-enacting that order with or without modification) no development within the following Classes of Schedule 2 of the Order shall take place.

#### Part 1

Class A - enlargement, improvement or other alteration to the dwelling

Class AA – Additional Storey

Class B - enlargement consisting of an addition to the roof

Class C - alteration to the roof  
Class D - erection of a porch  
Class E - provision of any building or enclosure  
Class F - any hard surface  
Class G - provision of a chimney, flue, soil or vent pipe  
Class H - installation, alteration or replacement of an antenna

## Part 2

Class A - erection, construction, maintenance or alteration of a gate, fence, wall or other means of enclosure

No development of any of the above classes shall be constructed or placed on any part of the land subject of this permission.

Reason: To ensure adequate planning control over further development having regard to the limitations of the site and neighbouring properties and in the interests of the visual amenities of the site and the area in general, in accordance with Policies HQ/1, H/15 and NH/2 of the adopted South Cambridgeshire Local Plan 2018.

### **Unexpected contamination**

If, during remediation or construction works, any additional or unexpected contamination is identified, then remediation proposals for this material should be agreed in writing by the Local Planning Authority before any works proceed and shall be fully implemented prior to first occupation of the dwellings hereby approved.

Reason: To ensure that risks from land contamination to the future users of the land 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 SC/11 of the adopted South Cambridgeshire Local Plan 2018.

### **Informatives**

In the event that the Planning Authority is so minded as to grant permission to the proposal please add an informative to the effect that the granting of a planning permission does not constitute a permission or licence to a developer to carry out any works within, or disturbance of, or interference with, the Public Highway, and that a separate permission must be sought from the Highway Authority for such works.

Any proposed flood resilient measures should follow current Government Guidance. For more information on flood resilience techniques, please see the Department for Communities and Local Government (DCLG) guidance document "Improving the Flood Performance of New Buildings – Flood Resilient Construction, 2007", which is available on the following website: <https://www.gov.uk/government/publications/flood-resilient-construction-of-new-buildings> Advice to LPA. With regard to the second part of the Exception Test,

your Authority must be satisfied with regard to the safety of people (including those with restricted mobility), the ability of such people to reach places of safety including safe refuges within buildings and the ability of the emergency services to access such buildings to rescue and evacuate those people.

Advice to Applicant – Flood risk. The Environment Agency operates a flood warning system for existing properties currently at risk of flooding to enable householders to protect life or take action to manage the effect of flooding on property. Floodline Warnings Service (F.W.S.) is a national system run by the Environment Agency for broadcasting flood warnings. Receiving the flood warnings is free; you can choose to receive your flood warning as a telephone message, email, fax or text message. To register your contact details, please call Floodline on 0345 988 1188 or visit [www.gov.uk/flood](http://www.gov.uk/flood) Registration to receive flood warnings is not sufficient on its own to act as an evacuation plan. We are unable to comment on evacuation and rescue for developments. Advice should be sought from the Emergency Services and the Local Planning Authority's Emergency Planners when producing a flood evacuation plan.

Pollution prevention: Environmental Permits (EP). The above response is made by the Environment Agency's in its role as statutory consultee to the local planning authority (LPA), and based upon the detail formally submitted, by the applicant/agent, to the local planning authority (LPA).

The applicant should be aware that, irrespective of any planning approval, the proposal will require an Environmental Permit (EP), or a variation to an existing EP, under the Environmental Permitting Regulations 2010, unless an exemption applies. The applicant is advised to contact the Environment Agency on 08708 506 506 for further advice and to discuss the issues likely to be raised. Additional 'Environmental Permitting Guidance' can be accessed via <https://www.gov.uk/topic/environmental-management/environmental-permits>

Consent for the discharge of effluent may be required from Environment Agency. Further information can be found at <https://www.gov.uk/permits>. This is irrespective of any planning approval.

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# Agenda Item 9



South  
Cambridgeshire  
District Council

13 April 2021

**Report to:** South Cambridgeshire District  
Council Planning Committee

**Lead Officer:** Joint Director of Planning and Economic Development

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## 20/04223/HFUL – 20A Pipers Close Fowlmere SG8 7RX

Proposal: New access from London Road and extension to the existing parking area to create on-site parking and turning

Applicant: Mr Sean Gentle

Key material considerations: Character and Appearance of the Area  
Residential Amenity

Date of Member site visit: None

Is it a Departure Application: No

Decision due by: 15 April 2021

Application brought to Committee because: The application site is owned by South Cambridgeshire District Council

Presenting officer: Marie Roseaman, Planning Officer

Officer Recommendation: Approval

### Executive Summary

1. This application is for a full householder application for a new access from London Road and extension to the existing parking area to create on-site parking and turning. The application site is a semi-detached one storey property located in the development framework of Fowlmere. The dwelling was erected under planning permission S/0488/84/O and is not subject to any Permitted Development restrictions.

2. During the process of the application, the ownership Certificate A was revised to Certificate B and notice served on the Cambridgeshire County Council as an interested party, a full reconsultation followed and is completed prior to this application coming before the planning committee.
3. Officers consider that the proposed development would not result in significant harm to the amenities of neighbouring properties in accordance with Policy HQ/1. Subject to conditions, officers consider that the proposed development would not result in adverse highways safety implications. The proposal would accord with the parking provision requirements as set out in Policy TI/3.
4. Officers consider that, subject to conditions, the proposed development accords with national and local planning policies.

### **Relevant planning history**

5. S/0488/84/O – Erection of two dwellings - APPROVED

### **Planning policies**

#### **National Planning Policy**

6. National Planning Policy Framework (NPPF) – February 2019  
National Planning Practice Guidance (NPPG)  
National Design Guide (NDG)

#### **South Cambridgeshire Local Plan 2018**

7. S/1 Vision  
S/2 Objectives of the Local Plan  
S/3 Presumption in Favour of Sustainable Development  
S/7 Development Frameworks  
HQ/1 Design Principle  
TI/3 Parking Provision

#### **South Cambridgeshire Supplementary Planning Documents (SPD):**

8. District Design Guide – Adopted March 2010  
Sustainable Design and Construction SPD – Adopted January 2020

### **Consultations**

9. **Fowlmere Parish Council** – Comment submitted 26<sup>th</sup> November 2020:  
No objections

10. **Local Highways Authority** - Comment submitted 2<sup>nd</sup> December 2020:

There are no objections in principal.

Please add the following conditions and informative to any permission that the Planning Authority is minded to issue in regard to this application.

Prior to the commencement of the use hereby permitted pedestrian visibility splay of 2m x 2m shall be provided both sides of both vehicular accesses measured from and along the highway boundary. Such splay shall be within the red line of the site and shall thereafter be maintained free from obstruction exceeding 0.6m above the level of the public highway as detailed in the proposed layout plan 14 October 2020.

Reason: In the interests of highway safety.

Before the dwelling hereby permitted is occupied, the vehicular accesses from the existing carriageway edge shall be laid out and constructed in accordance with a detailed engineering scheme to be submitted to and approved in writing by the local planning authority, and such a scheme shall include the provision of a metalled/sealed surface for a minimum length of 10m from the existing carriageway edge.

Reason: In the interests of highway safety.

The accesses shall be constructed with adequate drainage measures to prevent surface water run-off onto the adjacent public highway, in accordance with a scheme submitted to and approved in writing by the Local Planning Authority.

Reason: To prevent surface water discharging to the highway.

In the event that the Planning Authority is so minded as to grant permission to the proposal please add an informative to the effect that the granting of a planning permission does not constitute a permission or licence to a developer to carry out any works within, or disturbance of, or interference with, the Public Highway, and that a separate permission must be sought from the Highway Authority for such works.

## **Representations from members of the public**

11. None received.

## **The site and its surroundings**

12. 20a Pipers Close, located off London Road is a semi-detached one storey property located in the development framework of Fowlmere. The site is opposite

agricultural farmland and sits on a bend in London Road approximately 30 metres from the junction of London Road and Chrishall Road.

## **The proposal**

11. The applicant seeks planning permission to introduce vehicular access to the front of the property, including alterations to the existing drive.
13. The application form states that the materials used would comprise of concrete hard standing and permeable paving.

## **Planning Assessment**

### **Key Issues**

14. The key issues to consider in the determination of this application are the impact upon the character and appearance of the area and residential amenity.

### **Impact upon the Character and Appearance of the Area**

#### **Policy Context**

15. Policy HQ/1 of the South Cambridgeshire Local Plan (2018) requires all new development to be compatible with its location and appropriate in terms of scale, density, mass, form, siting, design, proportion, materials, texture and colour in relation to the surrounding area.
16. Policy TI/3 of the South Cambridgeshire Local Plan (2018) states that car parking provision will take into consideration the site location, type and mix of uses, car ownership levels, availability of local services, facilities and public transport, and highway and user safety issues, as well as ensuring appropriate parking for people with impaired mobility. It should also accord with Policy HQ/1 which is outlined above.

#### **Assessment of the Proposal**

17. The application proposes new access layout to the front of the property to create on-site parking and facilitate turning.
18. The application also proposes to remove the existing front timber gate and erect a chain link fence on the boundary with no.20b Pipers Close.
19. The drive will measure a maximum of 12 metres in length and 8.5 metres in width, with two 2.5 metre x 5 metre parking bays. These measurements allow two vehicles to be parked within the curtilage of the site.
20. Materials used would include concrete hardstanding and permeable paving. All existing concrete areas are to be retained.

21. Currently, access to off-site parking for 20a Pipers Close is via entering onto the private front garden of 20b Pipers Close to the south.
22. Due to the proposed location of the access and drive which is to the front of the property, the proposal would be viewable from the street scene.
23. Upon the site visit, conducted on the morning of the 13<sup>th</sup> November 2020, the case officer noted that the utilisation of front gardens as off-street parking was typical of the local area.
24. It was also observed that proposed materials, which comprise of concrete and hardstanding would match the drive currently being used as well as those found locally.
25. It is acknowledged that there would be a degree of grass verge lost if the development was approved. However, this loss is not considered detrimental enough to cause a significant change to the character and appearance of the area.
26. Therefore, the proposal is considered to be cohesive, proportionate and subservient to the existing dwelling and not to result in significant visual harm upon the character and appearance of the local area in accordance with Policy HQ/1 of the South Cambridgeshire Local Plan 2018.
27. The speed limit of this stretch of road is 30 miles per hour.
28. The Local Highways authority did not raise objections to the nature of the proposed access and drive. However, they have requested a number of conditions and an informative be added to the application in the event of an approval. These conditions and informative relate to highway safety and drainage and will be duly attached to any consent given on this application.
29. It is considered that due to the current off-site parking arrangements, the precedence of front drives in the locale and the mitigating factors afforded by the pre-commencement conditions, the proposed new access and drive would not constitute a danger to traffic or pedestrians and would improve the utility of the existing drive.
30. Therefore, taking the above into consideration the proposal is considered to be cohesive, proportionate and subservient to the existing dwelling and not to result in significant visual harm upon the character and appearance of the local area in accordance with Policy HQ/1 and Policy TI/3 of the South Cambridgeshire Local Plan 2018.

## **Planning balance and conclusion**

31. For the reasons set out in this report, officers consider the planning application to be acceptable in accordance with relevant national and local planning policies, and having taken all relevant material considerations into account, it is considered that planning permission should be granted in this instance.

## Recommendation

32. Officers recommend that the Planning Committee approve the application, subject to the following conditions and informative:

## Conditions

- a) 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).

- b) The development hereby permitted shall be carried out in accordance with the following plans: Site plan 1:2500 – At A3; Proposed Layout Plan 1:250 and Existing Layout Plan 1:250. All plans are undated.

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

- c) Details of the materials to be used in the external construction of the proposed works, hereby permitted, shall follow the specifications as stated on the approved plans and application form.

(Reason - To ensure the appearance of the development is satisfactory in accordance with Policy HQ/1 of the South Cambridgeshire Local Plan 2018.)

- d) Prior to the commencement of the use hereby permitted pedestrian visibility splay of 2m x 2m shall be provided both sides of both vehicular accesses measured from and along the highway boundary. Such splay shall be within the red line of the site and shall thereafter be maintained free from obstruction exceeding 0.6m above the level of the public highway as detailed in the proposed layout plan 14 Oct 2020.).

Reason: In the interests of highway safety.

- e) Before the dwelling hereby permitted is occupied, the vehicular accesses from the existing carriageway edge shall be laid out and constructed in accordance with a detailed engineering scheme to be submitted to and approved in writing by the local planning authority, and such a scheme shall include the provision of a metalled / sealed surface for a minimum length of 10m from the existing carriageway edge.

Reason: In the interests of highway safety.

- f) The accesses shall be constructed with adequate drainage measures to prevent surface water run-off onto the adjacent public highway, in accordance with a scheme submitted to and approved in writing by the Local Planning Authority.

Reason: To prevent surface water discharging to the highway.

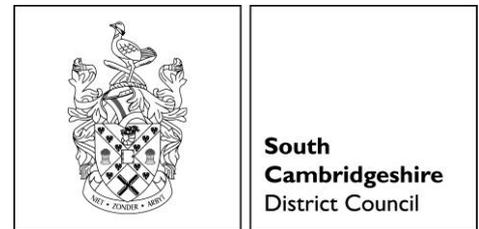
**Informative:** The applicant is reminded that the granting of a planning permission does not constitute a permission or licence to a developer to carry out any works within, or disturbance of, or interference with, the Public Highway, and that a separate permission must be sought from the Highway Authority for such works.

**Report Author:**

Marie Roseaman – Planning Officer  
Telephone: 07704 018462

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# Agenda Item 10



13 April 2021

**Report to:** South Cambridgeshire District  
Council Planning Committee

**Lead Officer:** Joint Director of the Greater  
Cambridge Planning Service

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## **20/02098/S106A – Land Between Church Lane And Ermine Street South, Papworth Everard**

Proposal: Modification of planning obligations (Community Building) contained in a Section 106 Agreement dated 21 October 2014 pursuant to outline planning permission S/0623/13/FL

Applicant: Flagship Housing Developments Ltd

Key material considerations: Principle of Development  
Section 106 Agreement and Infrastructure Contributions

Date of Member site visit: None

Is it a Departure Application?: No

Decision due by: EOT agreed until 20<sup>th</sup> April.

Application brought to Committee because: Papworth Everard Parish Council requests the application is determined by Planning Committee

Officer recommendation: Approval

Presenting officer: Aaron Coe, Principal Planning Officer.

### **Executive Summary**

1. This application seeks the modification of planning obligations for the Community Building contained in a Section 106 Agreement dated 21 October 2014 pursuant to outline planning permission S/0623/13/FL.
2. Consent was granted under planning applications S/0623/13/FL and S/0623/13/CA. The mixed use redevelopment was considered to reflect the aims of Policy H/4 with a good proportion of community, employment and residential uses that would contribute to the continued invigoration of the village centre.
3. This application seeks the modification of the planning obligations to ensure the progress of the planned delivery of the new homes on the site in tandem with progressing the work on the community building, in which the delays suffered has meant that the delivery of homes has overtaken the community building.

## Relevant planning history

4. **S/0623/13/FL-** Outline planning permission for the demolition of existing buildings & the erection of up to 58 dwellings (Class C3) access car parking & associated works open space landscaping & a children's play area all matters reserved except for access and full planning permission & conservation consent for the partial demolition of the existing printworks building & the conservation and re-use of the retained building to provide a brewhouse (B2) bakery (B1) floor area for the consumption of food and drink (A3/A4/A5) and community rooms (D2) associated access car parking & landscaping and eight units of accommodation to be used either as housing (C3) and/or business uses (B1a)- Approved.
5. **S/0623/13/CA-**Partial Demolition of Printworks Building-Approved.
6. **S/2859/16/VC-** Variation/removal of conditions 6-18, 21-22, 25027, 30-32, 34-42, 44, 49 and 51 of planning permission S/0623/13/FL- Approved.
7. **S/0307/17/RM-** Reserved matters application relating to the matters of layout scale appearance and landscaping for 53 dwellings on land at Church Lane Papworth Everard pursuant to outline planning permission S/0623/13/FL.

## Planning policies

### 8. National Guidance

National Planning Policy Framework (NPPF) 2019  
National Planning Practice Guidance (NPPG)  
National Design Guide 2019  
Planning Practice Guidance Circular 11/95 – The use of conditions in Planning Permissions (Annex A)

### 9. South Cambridgeshire Local Plan 2018

S/1 – Vision  
S/2 – Objectives of the Local Plan  
S/3 – Presumption in Favour of Sustainable Development  
S/5 – Provision of New Jobs and Homes  
S/7 – Development Frameworks  
CC/1 – Mitigation and Adaptation to Climate Change  
CC/3 – Renewable and Low Carbon Energy in New Developments  
CC/4 – Water Efficiency  
CC/6 – Construction Methods  
CC/7 – Water Quality  
CC/8 – Sustainable Drainage Systems  
CC/9 – Managing Flood Risk  
HQ/1 – Design Principles  
HQ/2 – Public Art and New Development  
NH/4 – Biodiversity  
NH/14 – Heritage Assets  
H/4 – Papworth Everard West Central  
H/8 – Housing Density  
H/9 – Housing Mix  
H/10 – Affordable Housing  
H/12 – Residential Space Standards

SC/2 – Health Impact Assessment  
SC/6 – Indoor Community Facilities  
SC/7 – Outdoor Play Space, Informal Open Space and New Developments  
SC/9 – Lighting Proposals  
SC/10 – Noise Pollution  
SC/11 – Contaminated Land  
SC/12 – Air Quality  
TI/2 – Planning for Sustainable Travel  
TI/3 – Parking Provision  
TI/8 – Infrastructure and New Developments  
TI/10 – Broadband

#### 10. South Cambridgeshire Supplementary Planning Documents (SPD):

District Design Guide SPD - Adopted March 2010  
Trees & Development Sites SPD - Adopted January 2009  
Listed Buildings SPD 2009  
Development Affecting Conservation Areas SPD 2009  
Landscape in New Developments SPD - Adopted March 2010  
Open Space in New Developments SPD - Adopted January 2009  
Affordable Housing SPD – Adopted March 2010  
Biodiversity SPD - Adopted July 2009  
Health Impact Assessment SPD – Adopted March 2011  
Sustainable Design and Construction SPD – Adopted January 2020  
Cambridgeshire Flood and Water SPD – Adopted November 2016

#### Consultations

##### 11. Papworth Everard Parish Council-

###### **As submitted- Objections.**

See application file online for a full copy of the comments received from Papworth Everard Parish Council on 25<sup>th</sup> May 2020 to the original proposal.

The comments of Papworth Parish Council received on 25<sup>th</sup> May 2020 are summarised as follows:

The Birkett's letter demonstrates the lack of effort and intent shown by the applicant in fulfilling the legal requirement to refurbish the printworks building prior to the expected date of the occupation of the first dwelling on the site. To the Parish Council, it appeared that they set aside the printworks, to be dealt with later and concentrated solely on building houses. Flagship do not seem to appreciate that the refurbished printworks building is a fundamental element of the development which will go some way to recreating the balance that once existed in this central part of the village between employment, community and residential uses.

Given the current economic recession and continued uncertainty caused by the corona virus epidemic in the UK, if the current application were granted there would be no certainty as to when, or even if, the applicant would provide the community building. By refusing the application- ie. By ensuring the applicant met their current legal obligations now – there is far more certainty that the community building will be delivered in a timely manner.

It must be an entirely commercial decision to delay provision of the community building. The applicant knew from the outset, when the site was purchased, the legal requirements placed upon it by the S106 Agreement.

The Parish Council feel that if the requested modification to the legal obligations is allowed, this will set unfavourable precedents for future adherence to the S106 Agreements in South Cambridgeshire.

The community needs this facility. For at least the last 8 to 10 years the Parish Council has been pressed by residents about the obvious lack of progress on the promised building.

### **As Amended (1) Objections.**

See application file online for a full copy of the comments received from Papworth Everard Parish Council on 3<sup>rd</sup> February 2021 to the amended proposal.

The comments of Papworth Parish Council received on 3<sup>rd</sup> February 2021 are summarised as follows:

There is a long-standing policy, Policy H/4 for the enhancement of the community and employment provision in the Papworth West Central Area of Papworth Everard. This policy underpins the preparation of the S106 Agreement. A pre-occupation clause was included in the S106 Agreement to ensure timely delivery of a policy which is already more than 10 years old. The printworks is the only development in Papworth West Central which will address the policy requirement for community use and employment. Despite the legal agreement, the applicant has yet to start construction of the former printworks.

The date on which the renovation work on the printworks will start remains uncertain. Concern is raised that houses are now built but the printworks remains an eyesore. Under the proposed amended triggers, the timescales to get to the point of opening the building would decrease by 6 months however the start date is delayed and indeterminate, and the work to complete the building to the required standard and offer the transfer to Allia is estimated to be up to a year away. No reasonable explanation for the delays has been given. The Parish Council considers the proposed opening of the community building could be up to 3 years away.

By retaining the existing S106 clauses and requiring the completion of the renovation of the shell of the former printworks building, before occupation of any new houses on Church Lane to Ermine Street, the Parish Council considers the printworks would be ready for fit out in a maximum of six to eight months and the houses on the development could then be added to the District Council's housing land supply.

No information as to why a sum of £60,000 has been offered towards the cost of preparing the building for opening has been provided. No explanation for the inclusion of this figure or how it was calculated. The Parish considers £60,000 would make a small contribution to the total costs of the fit-out.

Altered terms for the transfer of the building in the event of Allia's withdrawal, the freehold former printworks building would be passed to the Parish Council or another body for the sum of £1.00. The amended terms according to the letter submitted details this would be replaced by a leasehold at market value. Meaning if the Parish or similar body did not have sufficient funds for the cost of the fit-out and the market

value purchase of the building, the community building would not be delivered and Local Plan Policy H/4 not fulfilled.

### **As Amended (2) - Objections.**

See application file online for a full copy of the comments received from Papworth Everard Parish Council on 7th February 2021 to the amended proposal.

The comments of Papworth Parish Council received on 7th February 2021 are summarised as follows:

Policy H/4 of the adopted Local Plan underpins the requirements for the community building provisions and the triggers to assure timely delivery in the existing S106 Agreement of 21<sup>st</sup> October 2014 entered into by the parties.

The pre-occupation trigger clause and the related subsequent deadlines tied to this trigger were subject of considered and extensive negotiations between the parties and deliberately included in Section 2 of the Third Schedule of the existing S106 Agreement to ensure the timely delivery of the Community Building in accordance with this policy, which remains sound.

Planning committee took a decision at its meeting of 6<sup>th</sup> November 2013 to give Officers delegated powers to approve the application subject to the S106 Agreement securing the delivery of the Community Building in consultation with the Parish Council.

The site is the only development in the Papworth Everard West Central policy area that can and will address the policy requirement for the provision and enhancement of community facilities and employment uses.

The applicant was in full knowledge of the pre-occupation trigger clause and related subsequent deadlines tied to this trigger in the existing S106 Agreement relating to the timely delivery of the Community Building. Progress with construction of the housing has continued throughout the period, in parallel with the necessary discharge of the planning conditions. In stark contrast the same cannot be said for progress with the shell of the Community Building.

The Parish Council is under repeated and vocal pressure resulting from the sheer frustration of its parishioners that the applicant has held the site since 2015 and has been allowed to progress the construction of its housing, but not the shell of the Community Building, despite its legal obligations to do so.

The amendment to the pre-occupation trigger clause which serves to relax its legal requirements on the timeline for delivery of the shell of the Community Building to a later indeterminate point in the future, the sale/occupation of 50% of the dwellings, puts at increased risk the very delivery of the Community Building by Allia in view of the work necessary to complete the shell to the required fit out standard and opening by Allia.

The Parish Council's estimate is that there would be a year or more delay to the initial trigger, if amended and that the direct consequence on the opening of the Community Building is that it would be delayed, and some 3 years from now, despite the houses coming on sale now.

By retaining the existing S106 Agreement in its current form, the pre-occupation trigger requiring the completion of the shell of the Community Building before occupation of any of the houses on the site, the Parish considers the shell of the Community Building could be ready in 6 to 8 months for fit-out by Allia.

The applicant has also failed to provide the information and evidence considered necessary in support of the assertions made in its application.

Altered terms for transfer of the building in the event of Allias withdrawal or failure to meet their reduced timeline. The applicant is seeking to vary substantive terms on what the transfer of the Community Building would be offered in the event of default by Allia.

The Parish Council is unanimous in its recommendation of refusal of this application by the applicant to modify the existing S106 Agreement.

### **As Amended (3)**

Formal re-consultation sent 19<sup>th</sup> March 2021. Comments to be included on the amendment sheet and presented to members at the committee meeting on 13<sup>th</sup> April.

#### **12. Historic Officer- No objections.**

Comments on original application- No material conservation issues with the proposal.

Comments on amendments- No material conservation issues with the proposal.

#### **13. Housing Officer- No objections.**

Comments on original application – No objections.

Supports the application as the relaxation of triggers will allow Flagship Homes to have the funds available through the sale of completed properties and give them the cashflow to develop the Community Building and the remaining site including the delivery of the affordable dwellings. Flagship Homes are committed to the delivery of this scheme, including the Community Building, and are engaged in talks with Alia to take on the Community Building. Flagship Homes, have a track record of delivering many good quality affordable housing schemes in South Cambs. The relaxation of triggers will also ensure that the delivery of the affordable housing is safeguarded, and that Flagship Homes can continue to deliver affordable homes in the district as well

Comments on amendments – The amendments do not appear to have any implications on the delivery of the affordable housing units and therefore there are no further comments to add.

#### **14. South Cambridgeshire District Council S106 officer**

##### **As Submitted**

*What purpose does it fulfil?*

- The proposals continued purpose is to ensure the development continues to comply with Policy H/4 of SCDC Local Plan 2018 and provide a mix of uses including community uses, employment uses and housing.

- *Would it serve that purpose 'equally well' if it has effect subject to the proposed modifications?*
- As submitted the application does not propose any other modifications including shortening (a) the time within which Allia would have to take transfer of the Community Building (b) the time within which Allia would have to complete the fit out of the Community Building or (c) the time within which Allia would have to open the Community Building to the public. It would in my view be illogical to conclude that the purpose of the obligation would continue to be served "equally well" if it had effect subject to the proposed modification sought by Flagship Homes and which would have the direct effect of potentially delaying the opening of the Community Building for an indeterminate period of time (but perhaps 12 months). Having said that, if the application had also proposed to reduce the length of time which Allia were to take transfer of the Community Building and have it open for public use (i.e. where the chain of events for completion of the Community Building remained limited to 30 months or preferably less) then I would suggest such an application containing all amendments could be considered to satisfy this final test.
- In order to convince the District Council and Parish Council that such modification would still have the effect of delivering the Community Building within the revised timetable I would expect the applicant to submit such supporting evidence including (but not limited to): 1. Details of the construction company appointed to deliver the Community Building (including a copy of the contract) 2. Building Regulation drawing submission and approval for the Community Building 3. Construction delivery plan for the dwellings 4. Details of the arrangements for transfer of the Community Building to Allia (including copy of the completed or draft contract)
- It is my view that an amended application which also seeks to reduce the possible periods for Allia taking ownership of the Community Building then fitting it out and making it publicly accessible, and which is supported by relevant documentation demonstrating a continued commitment to deliver the Community Building, would have led to a more informed assessment and potentially more positive recommendation of support. Such an amended application could even include proposing a trigger for construction of the Community Building commencing.

### **As Amended -**

The applicant has proposed several modifications to the application since first submitted. The final proposal, insofar as the Community Building is concerned, can be summarised as follows:

1. 40 of the dwellings on the blue land permitted to be sold before the Community Building is completed and offered to Allia.
2. £60,000 to be paid to the Council prior to the occupation of any dwelling on the blue land which will be used to help fit out the Community Building.
3. Introduction of triggers/occupation restrictions for the delivery of the Community Building
4. Reduce the time from 24 months to 18 months within which (following transfer) Allia must open the Community Building to the public
5. Improvements to the Community Building Specification

Previous concerns I had expressed related predominantly to the impact that the first obligation (i.e. to complete the Community Building and offer the freehold transfer to Allia) had on the overall timetable for the opening of the Community Building to the

public which in my view is the objective of the policy. These concerns have been addressed by the applicant in 2 ways.

First the applicant is seeking to reduce from 24 months to 18 months the time that Allia would have to open the Community Building to the public from the date that it completes the transfer. Second the applicant is offering to subsidise, in the form of a £60,000 payment, works to the Community Building to help facilitate its earlier opening to the public.

In my view a decision taker could now conceivably conclude that the purpose of the obligation would continue to be served “equally well” if it had effect subject to the proposed modifications.

## **15. Representations from members of the public**

### **Allia- Objections.**

16. Comments that there must be a reliance on the provisions of the existing Section 106 Agreement where no market housing can be occupied until the building is completed and offered to Allia and where Allia have a sufficient period of time to proceed.

### **Dernford Holdings Ltd-**

17. Gives property advice to Allia and assists on specific project. Has had discussions on behalf of Allia with Flagship. Following the suggestion of Flagship to change the specification of the community building, it was suggested that they deliver a shell building, but one that was fitted out with floor coverings, lighting, heating and other basic works which would have created a flexi space suitable for a wide range of community and other uses which would have enabled Allia to be able to commit to take the building at its practical completion date. This was declined by Flagship. After discussions, Flagship offered a capital contribution of £60,000 to which Allia proposed an alternate sum of £125,000. This was rejected. It was then made clear by Flagship that they would not entertain any further changes and it was accepted that they would deliver the building when they were going to deliver it and Allia would rely on its discretionary powers in terms of whether it could take it on or not.

## **18. The site and its surroundings**

19. The site is located within the Papworth Everard Village development framework and is partly within and between the Conservation Area. The site totals some 2.07 hectares in area.

Planning consent was granted under application reference S/0623/13/FL which was considered as a ‘hybrid’ planning application. The scheme secured outline planning permission for the erection of up to 58 dwellings (blue land) and full planning permission for the works to the community building as well as 8 residential units (pink land).

(i) 'Pink Land' - Situated within the Conservation Area, this area of land is occupied by the existing, vacant printworks buildings and full planning permission and conservation area consent is sought for part demolition of the printworks with the front 'saw-tooth' building of 1929 being partly retained to provide a brewhouse (B2 use), bakery (B1 use), restaurant and café (A3, A4 and A5 uses) and community rooms (D2 use). Car parking, access and landscaping would be provided to the south-west

of this retained building, as well as 8 units of accommodation at 2.5 storey height to be used as housing (C3) and/or business office use (B1a).

(ii) 'Blue Land' - The remaining area of the site is situated to the south side of Church Lane and accommodates a vacant two storey dwelling, a block of garages and the disused Tallyn Work centre. Outline consent, with all matters reserved except for access, is sought for up to 58 dwellings, parking and children's play area. Vehicular accesses would be provided off Church Lane and a link through to the rest of site provided for cyclists and pedestrians only. Frontage access would be introduced to each new dwelling immediately facing Church Lane.

## **20. Reason for the proposed variation**

Flagship acquired the site and commenced a tender process in 2016. However, due to the contractor market at the time a viable contract sum could not be achieved which resulted in the scheme being retendered in 2018. A building contract was let in early 2019 and works commenced in July 2019. As works have progressed a series of issues have been uncovered which has resulted in further investigations such as an assessment of temporary works, structural and fabric surveys and steel grade, geo-technical and concrete core testing. Flagship carried out pre application discussions with South Cambridgeshire District Council regarding a new building Community Building rather than refurbishing the existing building. However, the pre application responses did not give Flagship enough certainty that a revised application for a new building would be supported. As such, Flagship had to take the decision to progress with the delivery of the extant permission for the Community Building. Due to the delays suffered whilst the options of providing a new building were explored, the construction of the dwellings has now surpassed the trigger which required the community building to be completed prior to first occupation and therefore, a variation is required.

### **The Proposal**

21. The application as originally submitted was seeking a variation which would enable 50% of the dwellings to be occupied prior to the completion of the community building or offering to the first beneficiary, upgrade the specification of the building and a reduced timescale for the fit out of the building. During the course of the planning application further time has passed and the application has been amended. The amendments involve a revised trigger of 40 dwellings proposed to be occupied prior to the completion of the community building. Further triggers have also been added which relate to the construction phase/ fitting out stages of the community building which will be enforceable. In addition, a contribution of £60,000 to be paid to the Council has been put forward in order to subsidise the fit out cost of the Community Building and help facilitate the earlier opening of the building to the public.

The details of the proposed variation involves the following amendments:

### **First Modification:**

## **22. Original Clause 2.1**

Prior to Occupation of the first Dwelling on that part of the Site coloured blue on Plan 4 the Owners shall have completed the Community Building in accordance with the Community Building Specification and offered to transfer the freehold of the Community Building to Allia free of any encumbrances that would restrict or prevent

the use of the Community Building for the for the Community Facilities for the consideration of £1 substantially on the terms set out in the Seventh Schedule (“the Draft Transfer”).”

**23. Proposed Clause 2.1**

“2.1 In relation to the Community Building the Owner covenants with the Council as follows:

2.1.1 Not to Occupy or allow Occupation of any Dwelling on the Blue Land until the sum of £60,000 has been paid to the Council towards the fitting out of the Community Building for the purposes of providing Community Facilities.

2.1.2 Not to Occupy or allow Occupation of more than 25 Dwellings on the Blue Land until the works for he re-construction of the Community Building have commenced.

2.1.3 Not to Occupy or allow Occupation of more than 30 Dwellings on the Blue Land until the steel frame of the Community Building has been erected and modified for re-construction of the Community Building.

2.1.4 Not to Occupy or allow Occupation of more than 35 Dwellings on the Blue Land until the brickwork of the Community Building has been completed.

2.1.5 Not to Occupy or allow Occupation of more than 40 Dwellings on the Blue Land until the Community Building has been completed in accordance with the Community Building Specification and the Owner has offered to transfer the freehold of the Community Building to Allia free of any encumbrances that would restrict or prevent the use of the Community Building for the Community Facilities for the consideration of £1 substantially on the terms set out in the Seventh Schedule (“the Draft Transfer”).”

2.1.6 Upon completion of a stage of works or payment of monies required under this Paragraph the Owner will serve upon the Council a Trigger Notice relating to the relevant Community Building Trigger.

2.1.7 The Owner further covenants with the Council not to serve any completion notice or otherwise require any person to take up occupation of a Dwelling in breach of a Community Building Trigger

**Second Modification**

**24. Original Clause 2.3.3**

In the event that:

the Community Building is not opened to the public with Community Facilities operating within 24 months of completion of the transfer to Allia pursuant to paragraph 2.1 of this Schedule."

the owner of the Community Building shall at that time offer to transfer the freehold interest in the Community Building free from encumbrances to the Parish Council or such other person(s) company (ies) body (ies) or organisation(s) that the Council

shall specify to take a transfer of the Community Building ('the Council's Nominee') for the consideration of One Pound (£1.00).

25. **Proposed Clause 2.3.3**

In the event that:

the Community Building is not opened to the public with Community Facilities operating within 18 months of completion of the transfer to Allia pursuant to paragraph 2.1 of this Schedule."

the owner of the Community Building shall at that time offer to transfer the freehold interest in the Community Building free from encumbrances to the Parish Council or such other person(s) company (ies) body (ies) or organisation(s) that the Council shall specify to take a transfer of the Community Building ('the Council's Nominee') for the consideration of One Pound (£1.00).

**Third Modification**

26. Revised Community Building Specification (Sixth Schedule):

The Community Building Specification in the Sixth Schedule is proposed to be brought up to date in line with current Building Regulations. This is an improvement on the specification contained in the original agreement and includes installation of a new floor and upgrade of fire doors to comply with new building regulations.

**Fourth Modification**

27. **Original Clause 7.9:**

This Deed shall not be enforceable against owner/occupiers or tenants of the Dwellings or nor against those deriving title from them and shall not bind any mortgagee of an owner occupier.

28. **Proposed Clause 7.9:**

Clause 7.9 of the Original Agreement is deleted and replaced with:

"7.9 This Agreement shall not be binding or enforceable against owners occupiers or tenants of individual Dwellings nor against those deriving title from them nor their mortgagees or charges SAVE FOR in relation to the obligations relating to the Community Building at Paragraph 2.1 of the Third Schedule where there are restrictions on the Occupation of Dwellings above a prescribed number to prevent Occupation taking place where there would otherwise be a continuing breach because of the non-payment of monies or because of the non-delivery of the Community Building then such restrictions on the Occupation of such Dwellings (but not the substantive obligation to pay monies or deliver the Community Building) shall subject as herein provided bind the owner occupier or tenants of such Dwellings who shall not Occupy any Dwelling in breach of the Community Building Triggers PROVIDED THAT:

7.9.1. where a Dwelling has been lawfully Occupied (i.e. because a Trigger Notice has been served in relation to the phase of Dwellings including the relevant Dwelling or because there has been no breach of an Occupation restriction at the time of completion of the legal transfer (by transfer, lease or letting) of a relevant individual Dwelling) or because of confirmation or deemed confirmation that there has been no breach from the Council then the owner occupier or tenant of that Dwelling (and their successors in title or mortgagees) will not be liable for breach of a Community Building Trigger which occurs after the transfer of the Dwelling and the Community Building Trigger will only be binding on owners occupiers or tenants of those Dwellings which have not been transferred at the time the further Occupation restriction becomes applicable.

7.9.2 the Council may respond in writing to any request from those representing the purchasers of individual Dwellings to confirm whether there is any ongoing breach of the Agreement which would restrict Occupation and for a period of twenty (20) Working Days from the date of the Council's response the individual purchasers shall be entitled where applicable to place reliance on such correspondence confirming no on-going breach (such that this Agreement (but in relation only to the immediate breach of the Occupation restrictions) shall not be binding or enforceable against them) and in the event that the Council fails to respond within ten (10) Working Days then it shall be deemed that there is no occupation restriction application at that time and the purchasers shall be entitled for a period of twenty (20) Working Days following the expiry of the ten (10) Working Day period where there has been no response to place reliance on there being no restriction (such that this Agreement (but in relation only to the immediate breach of Occupation restrictions) shall not be binding or enforceable against them).

7.9.3 where a period of twenty (20) Working Days has expired pursuant to a request under this Clause 7.9 and the relevant purchaser has not legally completed their purchase of the relevant Dwelling then no reliance can be placed upon an earlier response or lack of response unless a fresh request is made in which case the operative provisions of this paragraph 7.9 shall apply BUT FOR THE AVOIDANCE OF DOUBT the provisions of this Clause 7.9.3 shall not affect the ability of a purchaser to rely on a valid Trigger Notice.

### **Fifth Modification**

#### **29. Mortgagee in possession clause to be updated in line with current practise**

1.8

1.8.1 any mortgagee or chargee (or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a Receiver)) of the whole or any part of the Affordable Dwellings or any persons or bodies deriving title through such mortgagee or chargee or Receiver PROVIDED THAT:

- a) such mortgagee or chargee or Receiver shall first give written notice to the Council of its intention to dispose of the Affordable Dwellings; and
- b) shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of the Affordable Dwellings to another registered provider or to the Council for a consideration not less than the amount due and outstanding under the terms of the relevant security

documentation including all accrued principal monies, interest and costs and expenses; and

c) if such disposal has not completed within the three month period, the mortgagee, chargee or Receiver shall be entitled to dispose of the Affordable Dwellings free from the affordable housing provisions in this paragraph 1 of the Third Schedule of this Agreement which shall determine absolutely.”

1.8.2 for the avoidance of doubt the provisions of this Third Schedule shall not be enforceable against any of the following:

a) a purchaser of a dwelling under the Right to Buy;

b) a 100% Staircaser;

c) any mortgagee or chargee of a Lease lawfully exercising the mortgagee protection provision within that Lease; or

d) any person or body deriving title from any of the above.”

## **Planning assessment**

### **30. Principle of Development**

31. The principle of development was established under the approved planning applications S/0623/13/FL and S/0624/13/CA.

32. As mentioned above planning application S/0623/13/FL was a hybrid application which consisted of two areas of land (pink and blue land). Within the blue land outline permission was granted for up to 58 units and within the pink land full planning permission was granted for 8 units with a community facility that would include a bakery, brewhouse and community room. The development is within a Minor Rural Centre which allows up to 30 dwellings to be permitted however Policy H/4 exceptionally allows planning permission to be created for development above the scale permitted in a Minor Rural Centre. This policy is aimed at the continued invigoration of the village centre with the principle of providing a mix of uses including community uses, employment uses and housing development. The policy goes on to say that any scheme for redevelopment must: (a) be well related to, and respect the character of, Papworth Everard village centre; and (b) integrate with surrounding development including the new residential development to the south.

33. Planning application S/0623/13/FL with the composition of mixed use redevelopment of the site was considered a positive reflection of the aims of Policy H/4 with a good proportion of community, employment and residential uses that would contribute to the continued invigoration of the village centre. The proposed community building was considered to be a key provider of the commercial and community uses in this application S/0623/13/FL.

### **Section 106 Agreement and Infrastructure Contributions**

34. The S106 Obligation agreed as part of planning application S/0623/13/FL was submitted by the developer confirming financial contributions towards education, outdoor play space and householder waste receptacles. The obligation also includes details of the delivery of the community building and the delivery of on-site affordable housing provision and Local Area of Play (LAP) area.

35. In respect of the first proposed modification Clause 2.1 is proposed to be varied (as detailed in paragraph 23) to introduce new triggers and milestones. In terms of the revised schedule, the first trigger is the payment of £60,000 towards the fitting out of

the community facilities prior to any occupation, the second trigger involves the commencement of the re-construction of the community building prior to the occupation of more than 25 dwellings, the third trigger is for the steel frame of the building to be constructed and modified prior to the occupation of 30 units and fourth trigger is the Owner must complete the community building in accordance with the Community Building Specification and offer the transfer of the freehold of the building to Allia.

36. The applicant has faced various challenges in delivering the development on site and the reasons the development of housing has outpaced the delivery of the community building are as a result on the following:

1. The time spent exploring better solutions to the extant planning proposal for the community building with the potential to provide a brand new building and to incorporate more affordable homes.

2. COVID19 Lockdown 1 restrictions delayed the design progression of the community building.

3. The delay in the formal agreement of the S106 specification changes for the community building established following the design progression, required to enable the re-construction works on the Community Building to commence.

4. The contractual obligation to the building to provide continuous construction progression, the works to the house phases were able to continue with minimal disruption as they were fully designed and procured before COVID19 lockdown came into effect.

37. The applicant states that it has been necessary to continue to progress the planned delivery of the new homes on the site in tandem with progressing the work on the community building, in which the delays suffered has meant that the delivery of homes has overtaken the construction of the community building. It is stated that if no variation to the existing trigger is agreed, this would affect housing supply and delivery in the local area, including the provision of affordable housing.

38. The amendment to the Section 106 Agreement to redress the delay in the delivery of the Community Building on the scheme and allow homes to be occupied, as stated by the applicant will generate finances from the sale of the homes to pay for the schemes ongoing progression, including the delivery of the community building.

39. The applicant has been working to ensure that the time between the transfer of the community building to Allia and it being made available for use is reduced. Clause 2.3.3 which is proposed to be varied (second modification detailed at paragraph 25) addresses this by reducing the period for opening to the public following its transfer from 24 months to 18 months. The additional £60,000 contribution (included in clause 2.1.1) provided by Flagship would go towards the fitting out of the building to provide the shell and facilities such as toilets, a kitchen and other items in a more timely manner.

40. The sixth schedule to be modified would ensure the specification of the Community Building would be in accordance with current building regulation requirements. This will include the installation of an upgraded flooring as well as new fire doors.

41. To amend the existing owner/occupier exclusion clause at 7.9 of the original agreement to ensure that the obligations not to occupy dwellings bind individual

owners of dwellings and their mortgagees. This offers more protection than the original agreement which was not enforceable against any owner, occupier, or mortgagee of individual dwellings. This is further supported by additional obligations at 2.1 requiring the developer not to serve notice on any buyers which would result in a breach as well as an obligation to advise the council when a trigger has been met and serve a notice. This will enable re-construction and compliance to be closely monitored and give buyers confidence that the obligations are being complied with.

42. The fifth modification (paragraph 29) introduces an amended mortgagee in possession clause for the affordable house. This variation is proposed to update the clause in line with current practise.

### **Planning Consideration**

43. In considering an application for modification of the provisions of a S106 Agreement under Section 106A, the Town and Country Planning Act 1990 (S106a) and Town and County Planning (Modification and Discharge of Planning Obligations) Regulations 1992, Paragraph 6 states that where an application is made to an Authority under subsection (3), the Authority may determine-

- (a) that the planning obligation shall continue to have effect without modification;
- (b) if the obligation no longer serves a useful purpose, that it shall be discharged; or
- (c) if the obligation continues to serve a useful purpose, but would serve that purpose equally well if it had effect subject to the modifications specified in the application, that it shall have effect subject to those modifications.

44. The key planning consideration for the application is whether the revised obligations set out within this report continue to meet the relevant tests which are applied when determining an application under Section 106A(1)(b):

- 1) *Does the obligation still serve a useful purpose?*
- 2) *If it does, does it serve that purpose equally well if it had effect subject to the modifications specified in the application?*

45. In respect of the first test, the revised obligations still secures the provision of the Community Building at a stage of the development where a reasonable number of dwellings remain unoccupied to ensure the opportunity for the Council to enforce in the event of any future breach as well as a clear incentive for the developer of the site to carry out the development and comply with the obligations to enable the release of the remaining dwellings.

46. Moreover, the revised wording of Clause 7.9 of the agreement prevents purchasers from obtaining dwellings in breach of the obligations which are now spaced throughout the revised triggers set out in Clause 2.1.1-2.1.7. This will also act as an incentive for the developer to comply and to ensure that dwellings cannot be occupied unless the Community Building has reached the relevant stage of construction and is completed. Officers consider that with the proposed triggers there is enough certainty that the Community Building will be delivered.

47. With regards to the second test, whilst it is acknowledged the revised proposal will result in a further delay in the provision of the completed shell of the Community Building (prior to occupation of more than 40 units), it must be noted that the revised proposal now include a £60,000 contribution towards the construction of the shell which will provide a core, toilets and a kitchen as well as upgraded flooring and fire doors which ensures the Community Building Specification is compliant with Building Regulation requirements. In addition, the reduction from 24 months to 18 months from completion of the transfer to the opening of the building set out in paragraph 25 successfully reduces the delay. A re-construction build out timetable has been submitted as part of the application (within Background Information- submitted 19<sup>th</sup> March 2021).

## **Planning balance and conclusion**

48. Overall, for the reasons set out above it is considered by officers that for the purposes of Section 106A(6) the obligations would continue to serve their purpose equally well if modified as detailed above and would continue to meet the relevant tests as set out above.

## **Recommendation**

49. Officers recommend that the Planning Committee approve the proposed deed of variation application subject to the deed being completed.

## **Conditions**

None.

## **Informatives**

None.

## **Background Papers**

- South Cambridgeshire Local Plan 2018
- South Cambridgeshire Supplementary Planning Documents (SPDs)
- Planning File References:
- S/0307/17/RM- S/2859/16/VC, S/0623/13/FL and S/0623/13/CA

## **Report Author:**

Aaron Coe, Principal Planning Officer



13 April 2021

**Report to:** South Cambridgeshire District  
Council Planning Committee

**Lead Officer:** Joint Director of Planning and Economic  
Development

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## **S/3215/19/DC – Longstanton (The Retreat, Fews Lane, Longstanton, CB24 3DP)**

Proposal: Discharge of condition 4 (foul water drainage) and 5 (surface water drainage) of planning permission S/2937/16/FL

Applicant: Mr Gerry Caddoo, Landbrook Homes Ltd

Key material considerations: Foul Water Drainage, Surface Water Drainage and Flood Risk

Date of Member site visit: None

Is it a Departure Application?: No

Decision due by: 11 December 2019

Application brought to Committee because: Matters have arisen following Members' earlier endorsement to discharge conditions 4 and 5 relating to surface and foul water drainage of S/3215/19/DC at the 13 January 2021 Planning Committee meeting which require a further assessment / clarification from officers. The officer recommendation remains to discharge the conditions.

Presenting officer: Lewis Tomlinson

### **UPDATE for 13<sup>st</sup> April 2021**

1. Members will recall considering the application to discharge condition 4 (foul water drainage) and 5 (surface water drainage) of planning permission S/2937/16/FL at the 13 January 2021 Planning Committee meeting. The Committee resolved to discharge the conditions.
2. At the January meeting, Officers advised members that the Sustainable Drainage Systems Non-Statutory Technical Standards (NSTS) only applies to development of 10 homes or more or major commercial development and therefore was not relevant to the application to discharge the condition(s) given that it was only for 1 dwelling.

3. Officers have sought Counsel advice on this matter following a post-committee representation from Fews Lane Consortium Ltd. Despite the NSTS guidance itself being framed only to apply to 10 + homes or major commercial development as set out in the accompanying Ministerial Statement of Dec 2014, the Council's adopted policy CC/8 of its subsequent 2018 Local Plan (which references the NSTS at criterion a)) does not specify a development threshold for compliance with the NSTS. Therefore, in light of this, officers consider that the NSTS guidance is relevant for the purposes of assessing the submission against the requirements of CC/8.
4. Stantec (the Council's appointed drainage consultant) has provided a further supplementary technical note dated 5th February 2021 which provides a further assessment against the NSTS (see Appendix 1). It concludes that all the principles of the standards are passed apart from peak flow control. However, it advises that a proportionate approach is taken to the proposal given the limitations of a single dwelling in achieving the necessary controls on peak flow. Para. 2.12 of the supplementary report from Stantec states:

'The site is for a single dwelling and therefore the equivalent greenfield runoff rates for such as scheme will always be minimal. To provide attenuation at the greenfield rates estimated (as listed in our report) would require the use of a control feature of such a small size that it would be at a high risk from blockages. This itself would be considered a flood risk'
5. Officers accept this advice and consider that the proposal does comply with the principles of the NSTS as far as reasonably practicable given the minor nature of the proposal and that a refusal to discharge the condition against CC/8 on this point of conflict with the NSTS would not be justified in the circumstances of the case.
6. The remainder of this report is unedited from the report that was presented to the January Planning Committee meeting.

### **Recommendation**

7. Officers recommend that the Planning Committee **APPROVE** this application to discharge conditions 4 and 5 attached to planning permission S/2937/16/FL as follows:

### **Condition 4 (Foul Water Drainage)**

The following details are acceptable to the local planning authority and therefore approved:

Site Plan, Drawing Reference FLL-345-Site 01

Drainage Layout, Drawing Reference 19/0321/100 Rev P9

Below Ground Construction Details, Drawing Reference 19/0321/110 Rev P2

Condition 4 shall be fully discharged once the foul water drainage system has been installed and made operational in accordance with the approved details.

**Condition 5 (Surface Water Drainage)**

The following details are acceptable to the local planning authority and therefore approved:

Site Plan, Drawing Reference FLL-345-Site 01  
Drainage Layout, Drawing Reference 19/0321/100 Rev P9  
Ditch Plan and Section 1, Drawing Reference 19/0321/101 Rev P3  
Below Ground Construction Details, Drawing Reference 19/0321/110 Rev P2  
Document titled Below Ground Drainage Operation and Maintenance Strategy Report, prepared by Andrew Firebrace Partnership Limited

Condition 5 shall be fully discharged once the surface water drainage system has been installed and made operational in accordance with the approved details.

## **UPDATE for 13<sup>th</sup> January 2021**

8. Members will recall considering the application to discharge condition 4 (foul water drainage) and 5 (surface water drainage) of planning permission S/2937/16/FL at the 14 October 2020 Planning Committee meeting. The Committee resolved to defer the application to allow a further 14-day public consultation to take place. This was to ensure that third parties were given an additional opportunity to comment on the Stantec Drainage Review which is attached to this report as Appendix A. This review was commissioned by the Greater Cambridge Shared Planning Service to provide further specialist drainage advice in relation to the application. It recommends that both conditions 4 and 5 of planning permission ref. S/2937/16/FL be discharged.
9. The Stantec Drainage Review has been available on public access since 24 August 2020 but further to the Committee resolution the additional consultation was carried out on 10 December 2020 specifically to seek third party comments on the review document. The consultation expired on 24 December 2020.
10. As of 29 December 2020, no representations have been received as a result of the consultation. Members will be advised should any representations be received prior to the Planning Committee meeting on 13 January 2021.
11. Officers recommend that the Planning Committee approve this application to discharge conditions 4 and 5 attached to planning permission S/2937/16/FL as set out in paragraph 70 below.
12. The remainder of this report is unedited from the report that was presented to the October Planning Committee meeting.

### **Executive summary**

13. Planning permission S/2937/16/FL was previously allowed on appeal for the erection of a 3no. bedroomed dwelling with parking on 27 September 2018. This current application seeks the discharge of condition 4 of S/2937/16/FL, which requires the submission of full details of the foul water drainage strategy for written approval by the local planning authority. The application also seeks discharge of condition 5 of S/2937/16/FL, which requires the submission of full details of the proposed surface water drainage, both from the building itself and from the proposed driveway area for written approval by the local planning authority. Both conditions were imposed by the Planning Inspector on the decision notice in order 'to prevent flooding'.
14. The submitted details, as amended, have been reviewed and assessed by officers and a drainage consultant appointed to review the submission on behalf of the local planning authority. A detailed report prepared by this

consultant has been appended to this report for Members to consider as part of their review of this application.

15. Longstanton Parish Council objects to the discharge of condition 5. Third party representations have been received objecting to the discharge of both condition 4 and condition 5. Numerous concerns have been raised, as summarised, in respect of technical details relating to the proposed foul water and surface water drainage; accordance of the proposals with the surface water drainage hierarchy; accordance of the proposals with adopted Local Plan policies CC/7, CC/8 and CC9, as well as national policy and guidance; lack of information; that the proposals will increase water runoff into Longstanton Brook increasing flood risk; that the proposed surface water runoff will be greater than the existing runoff rate for this site (as undeveloped); and that the proposed outfall into the existing watercourse is outside of the red line application boundary.
16. Both officers and the appointed drainage consultant are satisfied that the proposed submission details are in accordance with adopted national and local policy and guidance. It is considered that it has been satisfactorily demonstrated that the scheme provides a viable and fully justified foul and surface water drainage strategy that will not increase flood risk elsewhere. In officers' judgment, the extension (if any) of the development beyond the red line boundary would be de minimis, and in any event into an area within the same ownership as the site. Even if the development could be said to extend beyond the red line boundary, it would not be appropriate or proportionate, nor in the public interest, to require a planning application to extend the red line in those circumstances.
17. Members are therefore requested to support the application.

## **Relevant planning history**

18. Applications relating to the application site:

S/2439/18/FL – The erection of a 3 bedroom bungalow with parking - Approved

S/2937/16/FL – Proposed erection of a 3-bedroomed bungalow and parking – Allowed on appeal

S/0999/14/FL – Extension and alteration to existing bungalow to provide a house with ground, first and second floors (second floor attic rooms) – Approved

S/2561/12/FL – Erection of two bungalows - Approved

19. Applications adjacent to the application site:

20/02453/S73 – Variation of condition 7 (traffic management plan) pursuant to planning permission S/0277/19/FL to reflect the proposals in the traffic management plan to substitute the current wording with 'the development hereby permitted shall be carried out in accordance with the traffic management plan prepared by SLR consulting, version Final 1 and dated December 2019'. – pending consideration

S/0277/19/COND9 – Condition 9 – foul and surface water drainage – pending consideration

S/0277/19/CONDA – Submission of details required by condition 11 (scheme that demonstrates a minimum of 10% carbon emissions) and 12 (water conservation strategy) of planning permission S/0277/19/FL – pending consideration

S/4471/19/DC – Discharge of condition 7 (traffic management plan) pursuant to planning permission S/0277/19/FL – pending consideration

S/3875/19/DC – Discharge of conditions 4 (hard and soft landscaping), 6 (boundary treatment), 9 (foul and surface water drainage), 11 (renewable energy) and 12 (water conservation) pursuant to planning permission S/0277/19/FL - Refused

S/2508/19/DC – Discharge of condition 7 (traffic management plan) pursuant to planning permission S/0277/19/FL - Refused

S/0277/19/FL – Demolition of the existing bungalow and construction of two dwellings including car parking and landscaping - Approved

S/1059/16/DC – Discharge of condition 3 (materials), 4 (boundary treatment), 5 (hard and soft landscaping), 7 (surface water drainage), 8 (finished floor levels), 13 (traffic management plan) and 14 (archaeology) of S/1498/15/FL - Approved  
S/1498/15/FL – Erection of two dwellings – Approved

## Planning policies

20. National Planning Policy Framework (2019) (NPPF)  
National Planning Practice Guidance (PPG)

21. South Cambridgeshire Local Plan 2018  
S/1 Vision  
S/2 Objectives of the Local Plan  
S/3 Presumption in Favour of Sustainable Development  
HQ/1 Design Principles  
CC/7 Water Quality  
CC/8 Sustainable Drainage Systems  
CC/9 Managing Flood Risk

22. Greater Cambridge Sustainable Design and Construction Supplementary Planning Document (SPD) 2020  
Cambridgeshire Flood and Water SPD 2016

## Consultation

### 23. Longstanton Parish Council:

Comments received 11 August 2020: Continue to object to this application as it continues to propose discharge of the surface water drainage directly into the village watercourse which is in contravention of policies CC8 and CC9 of the South Cambridgeshire Local Plan.

Comments received 15 October 2019: recommend this application for objection as it proposed to discharge the surface water drainage directly into the village watercourse which is in contravention of planning condition 5 requiring surface

water drainage to be filtered through soil. Longstanton Parish Council support the comments made to the planning authority by neighbours in the letter dated 8 October 2019.

24. **SCDC Sustainable Drainage Engineer:** comments dated 26 October 2019 – the condition can be discharged in full.

25. **Anglian Water:** comments dated 26 June 2020 and 1 July 2020 - the foul water drainage strategy is acceptable to Anglian Water, we can therefore recommend the discharge of condition 4. The surface water drainage strategy does not involve discharge to Anglian Water owned assets, we therefore have no comments to make regarding the discharge of condition 5.

26. **Stantec consultants, appointed on behalf of Greater Cambridge Shared Planning Service to provide further specialist drainage advice:** full report of 20 August 2020 has been attached and is provided at Appendix A. Their report concludes that:

- Based on the information submitted we find that it has been satisfactorily demonstrated that the scheme can provide a viable drainage strategy that will not increase flood risk elsewhere.
- We conclude that the application would accord with policy CC/7, for foul drainage.
- We conclude the application would accord with policies CC/7, CC/8, CC/9 for surface water drainage.
- We recommend the applicant undertakes ordinary watercourse consent prior to the installation of the outfall arrangement.
- The future owner will need to be informed on the location of the underground storage tank, the maintenance responsibilities for the tank and covenant to ensure the driveway remains permeable in the future.
- The submission is considered consistent with the Cambridgeshire Flood and Water SPD for design of surface water drainage and paragraph 163 of the NPPF, which requires local planning authorities, when determining any planning applications, to ensure that flood risk is not increased elsewhere.
- We recommend the discharge of conditions 4 and 5 for the site.

## **Representations from members of the public**

27. Representations have been received from The Elms, Fews Lane dated 18 October 2019 and The Fews Lane Consortium dated 8 October 2019; 2 June 2020; 13 July 2020; 16 July 2020 and 13 August 2020 in relation to the application. The following concerns have been raised (as summarised):

- Object to the discharge of any part of condition 5 (surface water drainage)
- Details provided with this application are insufficient to assess whether the surface water scheme proposed complies with relevant local and national policies.
- Reconsultation should be undertaken to allow consultees to make representations on the application as amended.

- Condition 4 proposes discharge of foul water into the public sewerage system, but no evidence has been provided to demonstrate that the existing public sewerage system has capacity for the additional flows from the proposed development or that discharge into the public sewerage system has been agreed with the relevant sewerage undertaker.
- Surface water drainage arrangements fail to comply with policies CC/7, CC/8 and CC/9 of the Local Plan.
- No surface water drainage arrangements for the proposed driveway are shown on the submitted plans. Unclear if it is intended that permeable paving should be used to discharge the driveway surface water by infiltration. Minimum information required typically includes infiltration testing conducted in accordance to BRE Digest 365, including plan showing locations of tests. If infiltration is suitable for the driveway area of the site, no explanation has been submitted as to why it is not being used to discharge the surface water from the building.
- Council's drainage consultation response fails to consider the relevant particulars of the development proposed, the applicable local and national policies and basic principles of sustainable urban drainage system design.
- Drainage consultation comments for S/3875/19/DC comment on the arrangements under this application, stating 'the dwelling towards the north appears too close to the watercourse to enable soakaways to be positioned 5m from the dwelling without impacting on the hedge and bank of the watercourse'. There are numerous locations within the application site greater than 5m from the building foundations. The 5m rule is a rough rule of thumb that can be assumed safe for any building on any type of soil. Without proper geotechnical assessment it may be possible in many soils to install infiltration features and traditional soakaways much closer to the foundations.
- The following three material considerations preclude the discharge of condition 5:
  - 1) The scheme proposes an increase in surface water discharge from the site into Longstanton Brook from the pre-development discharge volume, thereby increase the flood risk of nearby properties. Contrary to the stated reason for the condition 'to prevent flooding'.
  - 2) Scheme positions the outfall for surface water drainage system outside of the red line boundary of the site. An application to discharge a planning condition cannot extend the boundaries of land to which planning permission relates.
  - 3) The relevant policies of the development plan are a material consideration and policies CC/8 and CC/9 of the Local Plan militate against approval of the application.
- Planning conditions are to be interpreted in a common sense way, having regards to the underlying purpose for the condition as is demonstrated by the reasons stated for the imposition of the condition or conditions in question (*R (Sevenoaks District Council) v Secretary of State* [2004] EWHC 771 (Admin)).
- The Appeal Decision granting permission in regards to application reference S/2937/16/FL states that, "in particular, conditions relating to foul and surface water drainage are necessary, to prevent flooding".
- However, under the scheme submitted by the applicant, the risk of flooding to nearby properties would actually be increased because the runoff volume from

the development to the nearby surface watercourse for nearly all rainfall events would exceed the runoff volume for the same event prior to redevelopment.

- The increase in surface water proposed to be discharged from the site would flow into Longstanton Brook, which has an extensive history of flooding.
- The relevant local and national planning policies indicate that development of brownfield sites should seek to reinstate greenfield runoff rates wherever possible and, in any case, that the post-development discharge rate should never exceed the rate of discharge from the development prior to redevelopment.
- The land proposed to be used for the outflow of the surface water drainage system falls outside the red line boundary on the location plan identifying the land to which the planning permission relates. No planning permission has been granted for any development to take place in, on, over, or under land outside of the boundaries of the application site.
- If the applicant wishes to extend the red line boundaries of the application site to include the land proposed for the surface water outflow, an application must be submitted under section 73 of the 1990 Act. The Council cannot use an application to discharge a planning condition to effect the same result that would properly be effected through an application submitted under section 73 of the 1990 Act.
- Policy CC/8 of the Local Plan 2018 states that: “Development proposals will be required to demonstrate that [...] surface water drainage schemes comply with *Sustainable Drainage Systems: Non-statutory technical standards for sustainable drainage systems* and the *Cambridgeshire Flood and Water Supplementary Planning Document* or successor documents.”
- *Sustainable Drainage Systems: Non-statutory technical standards for sustainable drainage systems* states in paragraph S3 that: “For developments which were previously developed, the peak runoff rate from the development to any drain, sewer or surface water body for the 1 in 1 year rainfall event and the 1 in 100 year rainfall event must be as close as reasonably practicable to the greenfield runoff rate from the development for the same rainfall event, but should never exceed the rate of discharge from the development prior to redevelopment for that event.”
- *Sustainable Drainage Systems: Non-statutory technical standards for sustainable drainage systems* states in paragraph S5 that: “Where reasonably practicable, for developments which have been previously developed, the runoff volume from the development to any highway drain, sewer or surface water body in the 1 in 100 year, 6 hour rainfall event must be constrained to a value as close as is reasonably practicable to the greenfield runoff volume for the same event, but should never exceed the runoff volume from the development site prior to redevelopment for that event.”
- The *Cambridgeshire Flood and Water Supplementary Policy Document* states in paragraph 6.3.8 that: “Brownfield (previously developed land) sites must reduce the existing runoff from the site as part of the redevelopment. Where possible, in order to provide betterment, redevelopments should look to reinstate greenfield runoff rates.”
- Under the scheme submitted by the applicant, the peak runoff rate of discharge from the development to the nearby surface watercourse would exceed the peak runoff rate of discharge of the site prior to redevelopment,

which is contrary to policy CC/8 of the Local Plan 2018, contrary to paragraph S3 of *Sustainable Drainage Systems: Non-statutory technical standards for sustainable drainage systems*, and contrary to paragraph 6.3.8 of the *Cambridgeshire Flood and Water Supplementary Policy Document*.

- Under the scheme submitted by the applicant, the runoff volume from the development to the nearby surface watercourse for the 1 in 100 year, 6 hour rainfall would exceed the runoff volume for the same event prior to redevelopment, which is contrary to policy CC/8 of the Local Plan 2018 and contrary to paragraph S5 of *Sustainable Drainage Systems: Non-statutory technical standards for sustainable drainage systems*.
- Policy CC/9 of the Local Plan 2018 states that: “In order to minimise flood risk, development will only be permitted where: [...] The destination of the discharge obeys the following priority order: i. Firstly to the ground via infiltration ii. Then, to a water body; iii. Then, to a surface water sewer; iv. Discharge to a foul water or combined sewer is unacceptable.”
- The information submitted by the applicant indicates that opportunities to use infiltration to discharge the surface water collected from the impermeable areas of the proposed development have not been adequately explored.
- It is a material consideration that the applicant owns other land immediately adjoining the application site that could be used to discharge the collected surface water through infiltration. (See Section 72(1) of the Town and Country Planning Act 1990.)
- Policy CC/9 of the Local Plan 2018 states that, “In order to minimise flood risk, development will only be permitted where: [...] there would be no increase to flood risk elsewhere”. The increase in surface water proposed to be discharged from the site would flow in Longstanton Brook, which has an extensive history of flooding. This would be contrary to policy CC/9 of the Local Plan 2018.
- Policies CC/8 and CC/9 of the Local Plan 2018 clearly militate against the approval of the details submitted with this application. Pursuant to section 38(6) of the Planning and Compulsory Purchase Act 2004, “If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”
- The Fewes Lane Consortium Ltd has received legal advice that residential gardens within built-up areas are classified as greenfield land for planning purposes, not brownfield land, as was implied in the Consortium’s letter dated 13 July 2020.
- Whilst this does not change the substance of the Consortium’s objections to the proposed development, it does mean that different paragraphs of *Sustainable Drainage Systems: Non-statutory technical standards for sustainable drainage systems* and the *Cambridgeshire Flood and Water Supplementary Policy Document* should have been quoted in the Consortium’s representations.
- *Sustainable Drainage Systems: Non-statutory technical standards for sustainable drainage systems* states in paragraph S2 that: “For greenfield developments, the peak runoff rate from the development to any highway drain, sewer or surface water body for the 1 in 1 year rainfall event and the 1 in 100 year rainfall event should never exceed the peak greenfield runoff rate for the same event.”

- *Sustainable Drainage Systems: Non-statutory technical standards for sustainable drainage systems* states in paragraph S4 that: “Where reasonably practicable, for greenfield development, the runoff volume from the development to any highway drain, sewer or surface water body in the 1 in 100 year, 6 hour rainfall event should never exceed the greenfield runoff volume for the same event. “
- The *Cambridgeshire Flood and Water Supplementary Policy Document* states in paragraph 6.3.6 that: “All new developments on greenfield land are required to discharge the runoff from the impermeable areas at the same greenfield runoff rate, or less than, if locally agreed with an appropriate authority or as detailed within the local planning policies of District and City Councils.”
- Under the scheme submitted by the applicant, the peak runoff rate of discharge from the development to the nearby surface watercourse would exceed the greenfield runoff rate for the 1 in 1 year and 1 in 100 year rainfall events, which is contrary to policy CC/8 of the Local Plan 2018, contrary to paragraph S2 of *Sustainable Drainage Systems: Non-statutory technical standards for sustainable drainage systems*, and contrary to paragraph 6.3.6 of the *Cambridgeshire Flood and Water Supplementary Policy Document*.
- Under the scheme submitted by the applicant, the runoff volume from the development for the 1 in 100 year, 6 hour rainfall event would exceed the greenfield runoff volume for that event, which is contrary to policy CC/8 of the Local Plan 2018 and contrary to paragraph S4 of *Sustainable Drainage Systems: Non-statutory technical standards for sustainable drainage systems*.
- The use of Sustainable Drainage Systems (“SuDS”) and the ability to integrate appropriate SuDS features into any development should be considered from the earliest phases of site selection and design. When considered at the appropriate time early in the design process, even the smallest sites can effectively integrate SuDS features, which can provide benefits in terms of reduced flood risks and provide positive contributions in terms of landscaping, residential amenity, and opportunities to enhance biodiversity.
- In the case of this development, no consideration was given to the issues of surface water drainage at the design phase, and as a result, the applicant has proposed to discharge the collected surface water into the village’s watercourses.
- The proposed rate of attenuation of discharge is insufficient and would result in an increased volume and rate of surface water discharge from the site, which would increase the risk of flooding elsewhere. This outcome is contrary to the inspector’s stated reason for imposing the surface water condition, which was to prevent flooding.
- The applicant has failed to consider any of the numerous options to discharge the collected surface water through infiltration. The details submitted by the applicant are also, by objective measures, contrary to policies CC/8 and CC/9 of the development plan.
- Having failed to consider appropriate SuDS solutions at the design phase, the applicant cannot now reasonably expect the Council to approve details that are contrary to the relevant policies of the development plan and that would increase the risk of flooding. This application should therefore be refused by the Council.

28. Two letters of support for the application have been received from the following addresses:

67 Duddle Drive, Longstanton  
The Beeches, Fewes Lane, Longstanton

Their comments relate to the delay in the consideration of this application and the impact of this on the delay on construction of the bungalow, of which they/a family member are prospective purchasers.

29. Full copies of all representations can be viewed on the public file available online.

## **The site and its surroundings**

30. The application site is within the development framework boundary of Longstanton village. It lies outside of the conservation area and sits to the rear of 'The Retreat', an existing bungalow of late 1960s masonry and tile construction. Extant planning permission exists for the demolition of 'The Retreat' and replacement with 2no. dwellings (S/0277/19/FL). To the west of the application site are 2no. recently constructed dwellings (S/1498/15/FL). The application site is currently residential garden associated with 'The Retreat' and benefits from planning consent for the erection of a 3-bedroom bungalow with parking (S/2937/16/FL).

31. The application site is accessed off the High Street via Fewes Lane, an unadopted access drive and public right of way. Immediately to the north of the garden lies an existing watercourse (ditch) which outfalls into the Longstanton Brook. The site lies within Flood Zone 1 and therefore has a low probability of flooding from rivers and sea. The Environment Agency Surface Flood Water Map shows that this site is in an area of Low to Very Low Surface Water Flood Risk. Longstanton Brook is shown nearby to be at medium to high risk of surface water flooding.

## **The proposal**

32. Planning permission S/2937/16/FL was allowed on appeal at this site for the erection of a 3-bedroomed bungalow with parking. This permission was granted subject to the following pre-commencement conditions which are now sought to be discharged under this current application:

Condition 4 – no construction work shall be commenced until full details of the proposed arrangements for foul water drainage have been submitted to the local planning authority and approved in writing. The new dwelling shall not be occupied or brought into use until the foul water drainage system has been installed and made operational, in accordance with these approved details.

Condition 5 – no construction work shall be commenced until full details of the proposed surface water drainage, both from the building itself and from the proposed driveway area, have been submitted to the local planning authority and approved in writing. The new dwelling shall not be occupied or brought

into use until the surface water drainage system has been installed and made operational, in accordance with these approved details.

33. In imposing these conditions the Planning Inspector states, '*conditions relating to foul and surface water drainage are necessary, to prevent flooding, and these need to take effect prior to commencement, to ensure an orderly sequence of works...However, a specific condition controlling run-off from the new dwelling's driveway is unnecessary, as this can be controlled by the condition that I have imposed relating to surface water drainage*'.
34. During the course of the application additional and revised information and details have been submitted and some of the information initially issued to discharge the relevant planning conditions has been superseded.
35. The proposed foul water drainage system details discharge of foul drainage into an existing foul sewer in Fews Lane.
36. The proposed surface water drainage system details discharge of surface water to an attenuation tank located within the rear garden of the dwelling. The proposed tank is 1.5m x 7.0m x 0.4m and is stated to be capable of storing to up to the 1 in 100 year plus 40% climate change event. A hydrobrake flow control chamber is shown at the outfall to the proposed storage attenuation tank, which discharges to the existing watercourse (ditch) to the north. The flow control is proposed to limit flow to a rate of approximately 1 litre per second.
37. The submitted information shows the existing watercourse to be at an approximate depth of 1.39m. The width has been measured as approximately 5.3m wide, at the top of the bank, and 2m wide at the base of the watercourse.
38. The driveway serving the dwelling is proposed as a gravel driveway, operating as an infiltration feature.

## **Background**

39. This application was submitted to and validated by the Council on 16 September 2019. A delegated decision was issued on 28 October 2019 confirming discharge of conditions 4 and 5 attached to S/2937/16/FL (allowed on appeal), subject to installation of the foul water and surface water drainage systems in accordance with the approved details.
40. This decision was subject to judicial review from an interested third party who wished to submit comments on the proposed foul and surface water drainage scheme prior to the local planning authority's determination of the application. A consent order was issued on 12 May 2020 quashing the Council's delegated decision to discharge conditions 4 and 5 dated 28 October 2019. The application has subsequently been passed back to the local planning authority for re-consideration and to allow for third party comments to be submitted. These third party comments have since been received and are summarised within this report. Officers can confirm that this application has been subject to

re-consultation, including further re-consultation following receipt of additional submissions from the applicant.

41. This application for discharge of conditions is now brought to the planning committee for their consideration of the officers' recommendation in respect of the discharge of conditions 4 and 5 attached to planning permission S/2937/16/FL relating to foul and surface water drainage respectively.
42. The Greater Cambridge Shared Planning Service has appointed expert advice on drainage matters to allow the local planning authority to fully consider the submission details provided by the applicant, to consider any third party comments and to assess the proposed scheme for foul and surface water drainage at this site having full regard to adopted national and local planning policy, as well as published and acknowledged approaches and best practice. A full copy of the report prepared by the appointed consultant, Stantec, is provided at Appendix A, which also includes details of the qualifications and expertise of the consultant providing the advice to the local planning authority.

## **Planning assessment**

43. The National Planning Policy Framework (NPPF) aims to ensure that flood risk is considered at all stages of the planning process to avoid inappropriate development in areas at risk of flooding and to direct development away from areas of highest risk. In exceptional circumstances, where new development is necessary in flood risk areas the policy also aims to ensure it is safe, without increasing flood risk elsewhere, and where possible reducing flood risk overall. For sites less than 1ha in size, such as the application site subject to this discharge of conditions request, and not at risk of flooding, a Flood Risk Assessment is not required, but nevertheless, the principles of ensuring the appropriate and sustainable management of drainage, to mitigate or prevent future flooding, should still form the basis for a sustainable drainage strategy and be used in support for the promotion of sustainable development. The proposed submission details have been assessed taking into account the requirements of the NPPF, in particular paragraph 163.
44. Third party representations refer to the Sustainable Drainage Systems Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) and state that the discharge of condition request should be refused on the basis of the contents of these Technical Standards. A statement from the Secretary of State for Communities and Local Government dated 18 December 2014 makes clear that these Technical Standards only apply to developments of 10 homes or more or major commercial development. On this basis, these Technical Standards are accordingly not relevant in the assessment of this application.
45. The Cambridgeshire Flood and Water SPD provides guidance on the approach taken to the design of new development to manage and mitigate flood risk, including sustainable drainage systems. The SPD promotes the surface water hierarchy as follows:

1. To ground in an adequate soakaway or some other adequate infiltration system; or where that is not reasonably practical
  2. A watercourse; or where that is not reasonably practical
  3. A surface water sewer; or where that is not reasonably practical
  4. A combined sewer.
46. The Flood and Water SPD provides further guidance on drainage strategies, including suitability of infiltration measures on a site, encouraging opportunities to integrate SuDs being maximised and where obstacles to their use persist, requiring this to be fully justified by an applicant. The SPD also advises that where discharge into a third party asset (such as a watercourse or public sewer) is proposed, then appropriate permissions and consents should have been discussed with the asset owner. The SPD additionally outlines the information required to be submitted as part of any surface water drainage strategy, noting that the level of information provided should be proportionate to the size and complexity of the site. Officers are satisfied that the level of information provided as part of this submission is appropriate, proportionate and in accordance with the adopted SPD.
47. Policies CC/7, CC/8 and CC/9 of the adopted South Cambridgeshire Local Plan 2018 are pertinent to the assessment of the details submitted. Policy CC/7 Water Quality requires all development proposals to demonstrate that there is adequate water supply, sewerage and land drainage systems to serve the whole development. It also expects that foul drainage to a public sewer should be provided wherever possible.
48. Policy CC/8 Sustainable Drainage Systems requires development proposals to incorporate surface water drainage systems (SuDs) appropriate to the nature of the site. Development proposals are required to demonstrate that:
- a) Surface water drainage schemes comply with the Sustainable Drainage Systems: Non-statutory technical standards for sustainable drainage systems and the Cambridgeshire Flood and Water Supplementary Planning Document or successor documents;
  - b) Opportunities have been taken to integrate sustainable drainage with the development, create amenity, enhance biodiversity, and contribute to a network of green (and blue) open space;
  - c) Surface water is managed close to its source and on the surface where it practicable to do so;
  - d) Maximum use has been made of low land take drainage measures, such as rainwater recycling, green roofs, permeable surfaces and water butts;
  - e) Appropriate pollution control measures have been incorporated, including multiple component treatment trains; and
  - f) Arrangements have been established for the whole life management and maintenance of surface water drainage systems.
49. Policy CC/9 Managing Flood Risk states that in order to minimise flood risk, development will only be permitted where:
- a) The sequential test and exception tests established by the National Planning Policy Framework demonstrate the development is acceptable (where required).

- b) Floor levels are 300mm above the 1 in 100 year flood level plus an allowance for climate change where appropriate and where appropriate and practicable also 300mm above adjacent highway levels.
- c) Suitable flood protection / mitigation measures are incorporated as appropriate to the level and nature of flood risk, which can be satisfactorily implemented to ensure safe occupation, access and egress. Management and maintenance plans will be required, including arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime;
- d) There would be no increase to flood risk elsewhere, and opportunities to reduce flood risk elsewhere have been explored and taken (where appropriate), including limiting discharge of surface water (post development volume and peak rate) to natural greenfield rates or lower, and
- e) The destination of the discharge obeys the following priority order:
  - i. Firstly, to the ground via infiltration;
  - ii. Then, to a water body;
  - iii. Then, to a surface water sewer;
  - iv. Discharge to a foul water or combined sewer is unacceptable.

Policy CC/9 continues further, setting out the requirements for site specific flood risk assessments.

50. In January 2020, the Greater Cambridge Sustainable Design and Construction SPD was adopted. This update is an addendum to the wider Cambridgeshire Flood and Water SPD (2016), and specifically incorporates updates following the publication of the adopted Local Plan in 2018. Whilst it is acknowledged that the adoption of the Sustainable Design and Construction SPD was post the approval of the development under application S/2937/16/FL and therefore the imposition of the conditions currently under consideration, it is a material consideration in the assessment of this application and therefore must be afforded some weight in the decision-making process. In addition, policy CC/8, criteria a) makes reference to ‘...the Cambridgeshire Flood and Water Supplementary Planning Document or successor documents.’ Paragraph 3.7.2 of the Sustainable Design and Construction SPD states ‘this section of the SPD focuses on guidance for the implementation of SuDs policy in the Cambridge Local Plan (2018). This guidance supplements the wider guidance on flooding and drainage provided for in the Cambridgeshire Flood and Water SPD. For applications in South Cambridgeshire, further guidance on policy implementation, alongside drainage checklists, is provided in the Cambridgeshire Flood and Water SPD.’ On this basis, Officers are satisfied that no further assessment of the submission details is required against the recently adopted Sustainable Design and Construction SPD in this instance, and that the guidance within the Cambridgeshire Flood and Water SPD remains relevant to the decision-making for this application.

#### **Condition 4 – Foul Water Drainage**

51. Condition 4 relates to discharge of the foul water drainage strategy for the approved 1no. dwelling within the application site. The submitted proposals detail discharge of foul water from the dwelling into an existing public sewer

within Few's Lane. This arrangement is considered acceptable in principle, in accordance with policy CC/7 of the South Cambridgeshire Local Plan 2018.

52. A third-party representation raises concern that there has been no evidence provided to demonstrate that the existing public sewerage system has capacity to accommodate additional flows from the development or that discharge into the public sewerage system has been agreed with the relevant sewerage undertaker.
53. As part of the consultation process for this application, a response has been received from Anglian Water, the relevant public sewerage undertaker for this site, who has reviewed the submitted foul water drainage strategy. Anglian Water has confirmed within its written response to the local planning authority that it recommends the discharge of condition 4.
54. On the above basis, and in accordance with the recommendation of our appointed drainage consultant, officers consider that the details provided by the applicant seeking discharge of condition 4 of planning permission S/2937/16/FL are in full accordance with both national and local planning policy and guidance, including Policy CC7 of the South Cambridgeshire Local Plan 2018 and the Cambridgeshire Flood and Water SPD.

## **Condition 5 – Surface Water Drainage**

55. This application also seeks to discharge condition 5, relating to the proposed surface water drainage strategy for the application site, including surface water arising from both the dwelling itself and the associated driveway area. As set out above, the surface water drainage strategy, in summary, seeks to discharge surface water from the dwelling to an attenuation tank located within the rear garden. Surface water from that attenuation tank is then controlled via a hydrobrake flow control chamber into an outfall that falls into the existing watercourse (ditch) to the north. The attenuation tank has been designed to accommodate a 1 in 100 year plus 40% climate change event, and to discharge at a control rate of 1l/s to the adjacent watercourse.
56. The driveway is proposed to be laid to gravel and operate as an infiltration feature.
57. Geotechnical investigation and infiltration tests, in accordance with industry standards, have been undertaken by the applicant, the results of which have been submitted and used to inform the proposed design of the drainage strategy for the application site.
58. The use of permeable surfacing for the driveway is in full accordance with the SuDs hierarchy set out within both policy CC/8 and the Cambridgeshire Flood and Water SPD, which directs discharge, as a first priority, to the ground via infiltration. Infiltration tests supplied by the applicant demonstrate suitable ground conditions for use of infiltration in this location.

59. Surface water run-off from the roof of the dwelling via infiltration, in accordance with the first priority of the SuDs hierarchy set out within Local Plan policy and the Flood and Water SPD, has been discounted by the applicant. Officers and our appointed drainage consultant (Stantec) consider that this has been sufficiently evidenced and justified due to the constricted space within the site for conventional soakaways or an alternative means of infiltration and due to the geological conditions of the site.
60. Third party representations have been received, stating that the proposed surface water drainage strategy does not accord within the SuDs hierarchy set out within the Local Plan.
61. Officers agree with the third-party objector that the submitted surface water drainage strategy is required to fully accord with the SuDs hierarchy. The SuDs hierarchy sets out a priority order, however it does also allow for discharge not via infiltration, where it can be fully justified as being inappropriate due to site specific reasons or conditions. Accordingly, where fully justified, a surface water strategy that discharges into a water body, such as that proposed, remains in full accordance with adopted national and local planning policy and guidance, being the next suitable option in the SuDs hierarchy priority order.
62. Use of a soakaway results in a concentrated point source of water within the ground. It is advised by the appointed drainage consultant that the risk of water affecting the soils under shallow foundations can be quite high if a soakaway is located close to a building. The Building Regulations, part H, advises against soakaways within 5m of building and roads.
63. In addition, geotechnical information supplied by the applicant evidences clay rich soil of a high plasticity index is present at the site. Again, our appointed drainage consultant has advised that the soil characteristics at this site, are therefore more likely to be at risk of failure through the introduction of soakaways, due to the swelling and shrinkage characteristics of this soil type. Therefore, soakaways or another infiltration feature accepting concentrated run-off, are not recommended within 5m of the building foundations or in proximity to the banks of the existing watercourse. Application of a 5m offset from the building footprint would leave an area of c. 2.5m from the bank of the existing watercourse. Locating soakaways adjacent to a watercourse is also not recommended.
64. Whilst it is agreed with the third-party comments that the 5m rule is not conclusive, given the site characteristics, geology, and proximity of the watercourse, sufficient evidence and justification exists to discount discharge via solutions which concentrate infiltration at this site. Subsequently, in accordance with the priority order of the SuDs hierarchy, discharge to the local watercourse is the next suitable option to deal with the roof run-off for this site, as proposed.
65. Third party representations further state that there are numerous locations for soakaways within the application site greater than 5m from the foundations of

the buildings. This has been assessed by the appointed drainage consultant and it is advised that all possible locations within the site have been reviewed and ruled out. Locations outside of the application boundary have not been considered, as this is not deemed to be appropriate.

66. The appointed drainage consultants and officers are subsequently satisfied that the priority SuDs hierarchy order of policy CC/9 is fully accorded with, in respect of discharge to the local watercourse for roof run-off for this site.
67. Greenfield discharge rates have been provided by the applicant for this site. These being:
- 0.1l/s for the 1 year
  - 0.2 l/s for Qbar (mean annual flood)
  - 0.4l/s for 30 years
  - 0.6 l/s for 100 years
68. The proposed discharge rate for the site is 1l/s using a hydrobrake; this being a mechanism used to control the flow of water from the attenuation tank into the outfall and existing watercourse.
69. It is acknowledged that the proposed development runoff rate will exceed the existing greenfield runoff rate for this site. The third party has raised an objection to this application on that basis, stating that as 'the scheme proposes an increase of surface water discharged from the site into Longstanton Brook from the pre-development discharge volume, thereby increasing the flood risk of nearby properties, this is contrary to the stated reason for the condition, which is to prevent flooding'. A similar objection is raised by Longstanton Parish Council.
70. The appointed drainage consultant has advised that the development is for a single dwelling, therefore the equivalent greenfield runoff rates for such a scheme will always be minimal. Therefore, to provide attenuation at the greenfield rate, then this would require the use of a water flow control feature of such a small size that it would be at a high risk of blockages, which itself would then be considered a flood risk. This position is supported by the 'Rainfall Runoff Management for Developments' national guidance, as advised by our appointed drainage consultant.
71. In addition, the Cambridgeshire Flood and Water SPD states that hydrobrakes should be used where rates are between 2l/s – 5l/s and that pipes below 2l/s are prone to blockage, but that this can be overcome with product selection and design. The appointed drainage consultant advises that since the publication of the SPD (2016) manufacturers have now developed hydrobrakes that can operate at 1l/s, as proposed, and that this is the minimum viable runoff flow rate for sustainable control without high risk of blockage (which would cause a greater risk of flooding).
72. Our appointed drainage consultants' report, attached, provides further assessment of the 1l/s flow rate and assesses it having regard to the potential flood risk associated with this. This work concludes that, modelled on a

worst-case scenario, the discharge rate of 1l/s will amount to 0.05% capacity of the existing watercourse for the proposed site. Therefore, runoff from this development site would amount to a negligible impact on level and flows associated with the existing watercourse.

73. In addition, the applicant has submitted calculations for the operation of the proposed attenuation during a 10 year 60-minute winter storm plus 40% climate change, with a fully submerged outfall scenario. The submitted information demonstrates that even in this worst-case scenario, the proposed site will not flood, nor will it cause off-site flooding.
74. It is acknowledged that SPD guidance is to ensure that proposed development does not exceed existing greenfield runoff rates, however such a requirement would likely hinder any small-scale development such as this and the implementation of controls to reduce runoff rates to greenfield below the proposed 1l/s is considered a higher potential flood risk, due to the potential for blockages. The approach set out within the proposed surface water drainage strategy is therefore recommended by the appointed drainage consultant, acting on behalf of the local planning authority, and officers agree that it is overall in accordance with the NPPF, Local Plan policies and the Cambridgeshire Flood and water SPD.
75. The site is not deemed to be at risk of flooding and is below 1ha in size, therefore the requirements for a Flood Risk Assessment are not relevant for this application. Similarly, the site is not subject to the Sequential tests. This is in full accordance with policies CC/8 and CC/9 of the Local Plan.
76. As required by policy CC/9, a below ground operation and maintenance strategy report has been submitted by the applicant, and this will form part of the Health & Safety file for the site. The responsibility for future management and maintenance is secured by this strategy and will be the responsibility of any future owner. These details have been reviewed by our appointed drainage consultant and confirmed as being acceptable.
77. In summary, given the above details, and in accordance with the recommendation of our appointed drainage consultant, officers consider that the details provided by the applicant seeking discharge of condition 5 of planning permission S/2937/16/FL are overall in accordance with both national and local planning policy and guidance, including policies CC/7, CC/8 and CC/9 of the South Cambridgeshire Local Plan 2018 and the Cambridgeshire Flood and Water SPD.

## **Other matters**

78. Third party representations have been made on the basis that condition 5 should not be discharged as the position of the final outfall for the proposed surface water drainage system is located outside of the red line boundary of the site and that an application to discharge a planning condition cannot extend the boundaries of land to which planning permission relates. The third party recommends that a planning application is made to extend the red line

boundary of the application site to include the land proposed for the surface water outflow into the existing watercourse.

79. Officers have considered the red line application boundary against the extent of the development proposed. In officers' judgment, whilst it is arguably the case that the pipe outlet does not extend beyond the red line boundary, if it does, the development beyond that boundary is considered to be so minor that it is de minimis. The query raised by the third party relates to a relatively small part of a pipe outlet, which is underground, and which will not protrude past the profile of the existing ditch. In any event, given that the watercourse immediately adjoins the northern boundary of the site, the area up to the mid-point of the ditch would be presumed to be within the same land ownership as the application site, and the pipe outlet falls well short of that mid-point.

80. In summary, discharging condition 5 either, does not require an extension of the red line boundary, or, in the event that it does, any extension of development beyond that boundary is considered to be de minimis. It is officers' view that, in the circumstances, it would not be necessary, appropriate, or proportionate to require an application to extend the red line boundary in the public interest. As such, officers recommend that the application to discharge conditions 4 and 5 can be determined in accordance with the recommendation provide below.

## **Conclusion**

81. The submitted details to discharge condition 4, foul water drainage, and condition 5, surface water drainage, are acceptable and in accordance with national and local planning policy and guidance.

## **Recommendation**

82. Officers recommend that the Planning Committee approve this application to discharge conditions 4 and 5 attached to planning permission S/2937/16/FL as follows:

### **Condition 4 (Foul Water Drainage)**

The following details are acceptable to the local planning authority and therefore approved:

Site Plan, Drawing Reference FLL-345-Site 01

Drainage Layout, Drawing Reference 19/0321/100 Rev P9

Below Ground Construction Details, Drawing Reference 19/0321/110 Rev P2

Condition 4 shall be fully discharged once the foul water drainage system has been installed and made operational in accordance with the approved details.

### **Condition 5 (Surface Water Drainage)**

The following details are acceptable to the local planning authority and therefore approved:

Site Plan, Drawing Reference FLL-345-Site 01  
Drainage Layout, Drawing Reference 19/0321/100 Rev P9  
Ditch Plan and Section 1, Drawing Reference 19/0321/101 Rev P3  
Below Ground Construction Details, Drawing Reference 19/0321/110 Rev P2  
Document titled Below Ground Drainage Operation and Maintenance Strategy Report, prepared by Andrew Firebrace Partnership Limited

Condition 5 shall be fully discharged once the surface water drainage system has been installed and made operational in accordance with the approved details.

## **Background Papers**

Fews Lane, Longstanton: Drainage Review, Project Ref. 49304, Revision A, dated 20 August 2020. Prepared by Stantec UK Limited.

## **Appendices**

Appendix A: Fews Lane, Longstanton: Drainage Review, Project Ref. 49304, Rev A

## **Report Author:**

Emma Ousbey – Principal Planning Officer  
Telephone: 07394 572822

## TECHNICAL NOTE

**Job Name:** Fews Lane, Longstanton, South Cambridgeshire  
**Job No:** 49304  
**Note No:** TN001  
**Date:** 05 February 2021  
**Prepared By:** S Knowles  
**Subject:** **Sustainable Drainage Non-Technical Standards**

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### 1. Introduction

- 1.1. South Cambridgeshire District Council (SCDC) have raised a query regarding the committee report for the site Fews Lane Longstanton, which outlined how the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) only applies to major developments, and therefore are not relevant to this application given that it was only for 1 dwelling.
- 1.2. The third party, Fews Lane Consortium (FLC), have raised concerns that officers misdirected members because policy CC/8 states:

*“Policy CC/8 Sustainable Drainage Systems requires development proposals to incorporate surface water drainage systems (SuDs) appropriate to the nature of the site. Development proposals are required to demonstrate that:*

*a) Surface water drainage schemes comply with the Sustainable Drainage Systems: Non-statutory technical standards for sustainable drainage systems and the Cambridgeshire Flood and Water Supplementary Planning Document or successor documents”*

*Therefore, FLC argues that the Non-Statutory Technical Standards should be applied to all schemes as per policy CC/8.*

- 1.3. Stantec have been asked to advise on the following: *If the non-statutory technical standards were applicable to the application, were there any elements of the proposal that wouldn't have complied with the standards and therefore would have changed the recommendation?*

### 2. Review

- 2.1. The Sustainable Drainage Non-Statutory Technical Standards (NSTS) was produced for Major Developments (10 dwelling or more), as detailed in paragraphs 3.2.5 to 3.2.8 of the Stantec Drainage Review report dated 20 August 2020 (hereafter referenced as the report). This is in accordance with the accompanying ministerial statement dated 18 December 2014 and as supported within the NPPF Practice Guide. Therefore, it was not appropriate to address the site of one dwelling against this document when considered in isolation.

#### DOCUMENT ISSUE RECORD

Technical Note No	Rev	Date	Prepared	Checked	Reviewed (Discipline Lead)	Approved (Project Director)
49304/TN001	-	05/02/21	S Knowles	SCD	SCD	SCD

This report has been prepared by Stantec UK Limited ('Stantec') on behalf of its client to whom this report is addressed ('Client') in connection with the project described in this report and takes into account the Client's particular instructions and requirements. This report was prepared in accordance with the professional services appointment under which Stantec was appointed by its Client. This report is not intended for and should not be relied on by any third party (i.e. parties other than the Client). Stantec accepts no duty or responsibility (including in negligence) to any party other than the Client and disclaims all liability of any nature whatsoever to any such party in respect of this report.

## TECHNICAL NOTE

2.2. The full definition of local planning policy CC/8 is as follows:

*Policy CC/8: Sustainable Drainage Systems Development proposals must incorporate appropriate sustainable surface water drainage systems (SuDS) appropriate to the nature of the site. Development proposals will be required to demonstrate that:*

- a) *Surface water drainage schemes comply with the Sustainable Drainage Systems: Non-statutory technical standards for sustainable drainage systems and the Cambridgeshire Flood and Water Supplementary Planning Document or successor documents;*
- b) *Opportunities have been taken to integrate sustainable drainage with the development, create amenity, enhance biodiversity, and contribute to a network of green (and blue) open space;*
- c) *Surface water is managed close to its source and on the surface where it practicable to do so;*
- d) *Maximum use has been made of low land take drainage measures, such as rain water recycling, green roofs, permeable surfaces and water butts;*
- e) *Appropriate pollution control measures have been incorporated, including multiple component treatment trains; and*
- f) *Arrangements have been established for the whole life management and maintenance of surface water drainage systems.*

2.3. Policy CC/8 states drainage schemes should comply with the NSTS and the Cambridgeshire Flood and Water Supplementary Planning Document (SPD). Whether it was the intention of CC/8 to ensure both Minor and Major development accorded with the NSTS is not clear.

2.4. The Cambridgeshire Flood and Water Supplementary document also states as follows regarding the NSTS (in paragraph 2.3.7 of the SPD):

*On 18 December 2014, a ministerial statement was made by the Secretary of State for Communities and Local Government (Mr Eric Pickles). The statement has placed an expectation on local planning policies and decisions on planning applications relating to **major development** to ensure that SuDS are put in place for the management of run-off, unless demonstrated to be inappropriate. The statement made reference to revised planning guidance to support local authorities in implementing the changes and on 23 March 2015, the Department for Environment, Food and Rural Affairs (Defra) published the 'Non-Statutory Technical Standards for Sustainable Drainage Systems'. Further detail on how SuDS can be delivered in the Cambridgeshire context can be found in Chapter 6.*

2.5. **Major development** in accordance with the Town and Country Planning Act, England Order 2015, is classified for residential as **10 dwellings or More**.

2.6. We state in **4.3.7** and **4.3.8** of our report as follows:

*"A review of policy CC/8 and CC/9 does not differentiate between the development of a single dwelling and that of major development, as defined within the NPPF. Therefore, the requirements of this policy are applicable to this application. The Chapter 6 of the Cambridge SPD also reinforces this through the statement "this chapter needs to be complied with on all development sites."*

*The Fews Lane Consortium makes reference to the Sustainable Drainage Systems: Non-Statutory technical standards for sustainable drainage systems in their reasons for refusal. It should be noted as detailed in paragraph 3.2.6 and as listed within the GOV.uk website, this technical standard is for development of **10 dwellings or more**, therefore this document is not applicable to this site.*

## TECHNICAL NOTE

- 2.7. Given the inclusion of the NSTS within policy CC/8 and the absence of any specific caveat on minor or major development under this policy, we tested the principles of the CC/8 requirement which in turn tests the principles of the NSTS, in our report for the assessment of the site drainage.
- 2.8. In summary we present below the points of the NSTS, in a proportionate manner, by cross referencing relevant sections of our report as follows.

### Flood risk outside the development

**S1** Where the drainage system discharges to a surface water body that can accommodate uncontrolled surface water discharges without any impact on flood risk from that surface water body (e.g. the sea or a large estuary) the peak flow control standards (**S2** and **S3** below) and volume control technical standards (**S4** and **S6** below) need not apply.

- 2.9. This is not applicable to the site as it discharges to a watercourse that cannot accept uncontrolled discharge. **See section 2 of the report.**

### Peak flow control

**S2** For greenfield developments, the peak runoff rate from the development to any highway drain, sewer or surface water body for the 1 in 1 year rainfall event and the 1 in 100 year rainfall event should never exceed the peak greenfield runoff rate for the same event.

**S3** For developments which were previously developed, the peak runoff rate from the development to any drain, sewer or surface water body for the 1 in 1 year rainfall event and the 1 in 100 year rainfall event must be as close as reasonably practicable to the greenfield runoff rate from the development for the same rainfall event, but should never exceed the rate of discharge from the development prior to redevelopment for that event.

- 2.10. The site has been assessed as greenfield development (paragraph **4.3.22**) therefore S2 would apply.
- 2.11. It has been acknowledged in the report (**paragraph 4.3.25**) the development will exceed the existing greenfield runoff calculated for the site. However, a pragmatic approach and understanding on the principles of greenfield runoff rates and development proposals must be applied.
- 2.12. The site is for a single dwelling and therefore the equivalent greenfield runoff rates for such as scheme will always be minimal. To provide attenuation at the greenfield rates estimated (as listed in our report) would require the use of a control feature of such a small size that it would be at a high risk from blockages. This itself would be considered a flood risk.

## TECHNICAL NOTE

- 2.13. It is acknowledged within the report that best practice is to ensure proposed development does not exceed existing greenfield runoff rates. However, such a requirement for individual properties is erroneous. The objective is not to increase flood risk. Risk always being the product of probability and consequence. Whilst the increase in run off rate could be said to increase the probability of a given flow occurring if there is little or no consequence then it can be inferred that the overall risk has not increased.
- 2.14. For further information refer to **4.3.22 to 4.3.33** of our report.

### Volume control

**S4** Where reasonably practicable, for greenfield development, the runoff volume from the development to any highway drain, sewer or surface water body in the 1 in 100 year, 6 hour rainfall event should never exceed the greenfield runoff volume for the same event.

**S5** Where reasonably practicable, for developments which have been previously developed, the runoff volume from the development to any highway drain, sewer or surface water body in the 1 in 100 year, 6 hour rainfall event must be constrained to a value as close as is reasonably practicable to the greenfield runoff volume for the same event, but should never exceed the runoff volume from the development site prior to redevelopment for that event.

**S6** Where it is not reasonably practicable to constrain the volume of runoff to any drain, sewer or surface water body in accordance with **S4** or **S5** above, the runoff volume must be discharged at a rate that does not adversely affect flood risk.

- 2.15. The principles of this part of the NSTS is acknowledged within paragraphs **4.3.22 to 4.3.33** in regard to the site exceeding calculated greenfield runoff. In paragraphs **4.3.30 and 4.3.31** of our report we state as follows:

*We do however acknowledge the concerns raised by the Few Lane Consortium regarding the flood risk to the local watercourse and in accordance with the SPD a desire for all developments to discharge at greenfield runoff rates. Therefore, we have provided further assessment regarding the potential flood risk associated with a discharge rate of 1l/s from the site. The existing watercourse dimensions are illustrated on the supporting ditch profile drawing Ditch Plan and Section drawing reference 19/0321/101 Rev P3 (Appendix B) and using this information we can confirm the following:*

*Using Manning's formula, it has been possible to estimate the capacity associated with the existing watercourse and required capacity to accommodate a discharge rate of 1l/s from the site. Refer to Appendix I. Using a worst case and conservative estimate, of 1:1 side slopes (assuming a top of bank width of 2m) and a bankfull depth of 1.24m, a Manning's n value of 0.05 and channel slope of 0.001, as a worst case assumption, it gives a bankfull flow capacity of the watercourse to be 2 m<sup>3</sup>/s. For a discharge rate of 1l/s (0.001 m<sup>3</sup>/s) this will only amount to 0.05% capacity of the watercourse to be utilised for the proposed site. Therefore, the site amounts to a negligible impact on levels and flows associated with the existing watercourse.*

- 2.16. The proposed discharge from the site, which would exceed the greenfield runoff, is acknowledged and we undertook a review of the capacity of the receiving watercourse and concluded the proposed rate would not adversely affect flood risk given the negligible consequences. Further information is provided in Section 4 of the report on the requirements of Policy CC/8 and its application to the site.

## TECHNICAL NOTE

### Structural integrity

**S10** Components must be designed to ensure structural integrity of the drainage system and any adjacent structures or infrastructure under anticipated loading conditions over the design life of the development taking into account the requirement for reasonable levels of maintenance.

**S11** The materials, including products, components, fittings or naturally occurring materials, which are specified by the designer must be of a suitable nature and quality for their intended use.

- 2.17. The designer included below ground construction details and maintenance information. The preliminary design of the drainage was informed based on the constraints of the site and the proposed end use.

### Designing for maintenance considerations

**S12** Pumping should only be used to facilitate drainage for those parts of the site where it is not reasonably practicable to drain water by gravity.

- 2.18. Pumping is not proposed and therefore not a consideration for the site.

### Construction

**S13** The mode of construction of any communication with an existing sewer or drainage system must be such that the making of the communication would not be prejudicial to the structural integrity and functionality of the sewerage or drainage system.

**S14** Damage to the drainage system resulting from associated construction activities must be minimised and must be rectified before the drainage system is considered to be completed.

- 2.19. The construction of the site and corresponding works will need to be undertaken in accordance with Building Regulations. This should be addressed as part of this works.

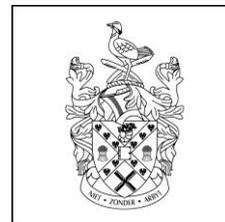
### 3. Conclusion

- 3.1. The Sustainable Drainage Systems Non-Statutory Technical Standards was produced for Major Developments, as detailed in paragraphs **3.2.5 to 3.2.8** of the Stantec report. We therefore feel it is not appropriate for this document to be applied to this site in isolation but note that reference is made to the document under Local Planning Policy CC/8, without definition of minor or major development.
- 3.2. We would recommend legal advice is sought on the application of CC/8 Local Planning Policy regarding the compliance of NSTS for minor development.

## TECHNICAL NOTE

- 3.3. We have noted in our report the concerns of the Fews Consortium regarding the proposals and the application of the SuDS NSTS to this site and its use within policy CC/8. We have tested the principles of the CC/8 requirement within our report which in turn tests the principles of the NSTS. In doing so we have had to take a proportionate approach given the limitations of a single dwelling in achieving the necessary controls on peak flow (given the ministerial statement for the NSTS states this document should be applicable to major development only).
- 3.4. The above is clarification only and does not change our original recommendation on this scheme.

# Agenda Item 12



South  
Cambridgeshire  
District Council

Reference: 20/02453/S73

Site Address: The Retreat Fewes Lane Longstanton  
CB24 3DP

13<sup>th</sup> April 2021

**Report to:** South Cambridgeshire District  
Council Planning Committee

**Lead Officer:** Joint Director of Planning and Economic Development

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## 20/02453/S73– The Retreat, Fewes Lane, Longstanton, CB24 3DP

**Proposal:** Variation of condition 7 (Traffic Management plan) pursuant to planning permission S/0277/19/FL to reflect the proposals in the Traffic Management Plan to substitute the current wording in Condition 7 with "The development hereby permitted shall be carried out in accordance with the Traffic Management Plan prepared by SLR Consulting, Version Final\_1 and dated December 2019" (Re-submission of 20/01547/S73)

**Applicant:** Mr Gerry Caddoo, Landbrook Homes Ltd

**Key material considerations:** Highway Safety including the safety of all users of the adopted and unadopted highways in the vicinity of the site.

**Date of Member site visit:** None

**Is it a Departure Application?:** No

**Decision due by:** 16<sup>th</sup> July 2020

**Application brought to Committee because:** Matters have arisen following Members' earlier endorsement to approve the S73 submission at the 13 January 2021 Planning Committee meeting which require a further assessment / clarification from officers. The officer recommendation remains to approve the S73.

**Presenting officer:** Lewis Tomlinson

## UPDATE

1. Members will recall considering this application at the 13 January 2021 Planning Committee meeting. The Committee resolved to approve the application subject to:
  - The revision of paragraph 3.2.4 of the Traffic Management Plan to state, during the construction stage, delivery vehicles shall not park on any street within the village of Longstanton.
  - Addition of an Informative urging the establishment of a liaison mechanism between residents, the Site Manager and Longstanton Parish Council to monitor compliance with the Traffic Management Plan and to resolve any disputes; and
  - The Conditions and Informatives set out in the report from the Joint Director of Planning and Economic Development.
2. At the Planning Committee meeting, in response to a point specifically raised at the meeting by Mr Fulton on behalf of Fews Lane Consortium Limited (“FLCL”), officers advised that Article 15 of the Town and Country Planning Development Management Procedure (England ) Order 2015 (publicity requirements for planning applications) did not apply to the S73 application because it was not an application for planning permission but an application to vary the wording of a condition. This was an error because a S73 application is still an application for planning permission.
3. However, the context within which this point was raised at the Committee related to whether the application had been advertised as affecting a Public Right of Way (PROW). Officers confirm that in fact the application was advertised as affecting a PROW and therefore Article 15 was satisfied in this case. Whether a proposal affects a PROW is a matter of judgement and this issue was covered in the officer report. A copy of the advertisement is attached as Appendix 1 to this report.
4. A representation had been sent to Democratic services from 6 Mitchcroft Road on the evening of the 12<sup>th</sup> January (the day before the planning committee). Due to human error, this representation not passed onto planning officers and therefore was not reported to members.
5. The representation from 6 Mitchcroft Road can be summarised as follows:
  - Objects on highway safety grounds
  - Recommends conditions regarding the lane to be widened to 5m, insertion of 2m by 2m pedestrian visibility splays and the maintenance of such splays
6. As the conditions were not imposed on the original planning consent nor did the Highway Authority request such conditions on the current application, officers do not consider it reasonable to apply such conditions now. This late representation does not raise any new material considerations and as such would not have changed the officer recommendation.
7. The remainder of this report is unedited from the report that was presented to the October Planning Committee meeting as set out below.

### **Recommendation**

8. Officers recommend that the planning committee **APPROVE** this application subject to:
- The revision of paragraph 3.2.4 of the Traffic Management Plan to state, during the construction stage, delivery vehicles shall not park on any street within the village of Longstanton.
  - Addition of an Informative urging the establishment of a liaison mechanism between residents, the Site Manager and Longstanton Parish Council to monitor compliance with the Traffic Management Plan and to resolve any disputes; and
  - The Conditions and Informatives set out in the 13 January 21 report from the Joint Director of Planning and Economic Development.

## 13 January 2021, Planning Report 20/02453/S73

### Executive Summary

9. Planning permission was granted at planning committee in May 2019 for the erection of 2 dwellings and ancillary parking. This application has been submitted to amend the proposed wording of condition 7 to respond to the specific circumstances on the site and the implications for the traffic management plan with respect to parking.

### Relevant planning history

10. Applications relating to the adjacent application site:

S/2439/18/FL – The erection of a 3-bedroom bungalow with parking - Approved

S/2937/16/FL – Proposed erection of a 3-bedroomed bungalow and parking – Allowed on appeal

S/0999/14/FL – Extension and alteration to existing bungalow to provide a house with ground, first and second floors (second floor attic rooms) – Approved

S/2561/12/FL – Erection of two bungalows - Approved

11. Applications relating to the application site:

S/0277/19/COND9 – Condition 9 – foul and surface water drainage – pending consideration

S/0277/19/CONDA – Submission of details required by condition 11 (scheme that demonstrates a minimum of 10% carbon emissions) and 12 (water conservation strategy) of planning permission S/0277/19/FL – Discharged in full

S/4471/19/DC – Discharge of condition 7 (traffic management plan) pursuant to planning permission S/0277/19/FL – pending consideration. This application will replace the need for this.

S/3875/19/DC – Discharge of conditions 4 (hard and soft landscaping), 6 (boundary treatment), 9 (foul and surface water drainage), 11 (renewable energy) and 12 (water conservation) pursuant to planning permission S/0277/19/FL - Refused

S/2508/19/DC – Discharge of condition 7 (traffic management plan) pursuant to planning permission S/0277/19/FL - Refused

S/0277/19/FL – Demolition of the existing bungalow and construction of two dwellings including car parking and landscaping - Approved

S/1059/16/DC – Discharge of condition 3 (materials), 4 (boundary treatment), 5 (hard and soft landscaping), 7 (surface water drainage), 8 (finished floor levels), 13 (traffic management plan) and 14 (archaeology) of S/1498/15/FL - Approved

S/1498/15/FL – Erection of two dwellings – Approved

### Planning policies

#### 12. National Guidance

National Planning Policy Framework 2019 (NPPF)

Planning Practice Guidance

National Design Guide 2019

### **13. South Cambridgeshire Local Plan 2018**

- S/1 Vision
- S/2 Objectives of the Local Plan
- S/3 Presumption in Favour of Sustainable Development
- S/7 Development Framework
- S/10 Group Villages
- CC/3 Renewable and Low Carbon Energy
- CC/6 Construction Methods
- CC/8 Sustainable Drainage Systems
- CC/9 Managing Flood Risk
- HQ/1 Design Principles
- NH/4 Biodiversity
- H/8 Housing Density
- H/12 Residential space Standards
- SC/11 Land Contamination
- TI/2 Planning for Sustainable Travel
- TI/3 Parking Provision
- TI/10 Broadband

### **14. South Cambridgeshire Supplementary Planning Documents (SPD)**

- Trees & Development Sites SPD - Adopted January 2009
- District Design Guide SPD - Adopted March 2010
- Sustainable Design and Construction SPD 2020

## **Consultation**

### **Cambridgeshire County Council (Highways Development Control)**

15. From the perspective of the Highway Authority the proposed wording of condition 7 is acceptable. (Original comments received 11<sup>th</sup> June 2020)

"The development hereby permitted shall be carried out in accordance with the Traffic Management Plan prepared by SLR Consulting, Version Final\_1 and dated December 2019"... please accept this Email as confirmation that the contents of the Traffic Management Plan prepared by SLR Consulting, Version Final\_1 and dated December 2019 are acceptable to the Highway Authority. (Further comments received 13<sup>th</sup> July 2020)

The submission of revised wording for condition 7 of planning application S/0277/19/FL makes no material changes to the scheme as approved. Therefore, the Highway Authority's original assessment of the proposals impact on the operation of the adopted public highway is consistent with the application that has now been made and no additional conditions are required. From the perspective of the Highway Authority the proposed changes to the wording of Condition 7 are acceptable and will negate the need for a further condition requesting a Traffic Management Plan, as this will be complied with via the reworded Condition 7. Within the original consultation response, the Highway Authority sought the following: Please add a condition to any permission that the Planning Authority is minded to

issue in regard to this proposal requiring that the existing Public Right of Way be constructed using a bound material, for the first ten metres from the back of the footway along High Street. Reason: in the interests of highway safety. This request is reiterated to the Planning Authority. (Revised comments received 6<sup>th</sup> August 2020)

#### **Contaminated Land Officer**

16. This variation application does not relate to contaminated land and therefore I have no comments to make.

#### **Drainage**

17. Drainage has no comments to this variation

#### **Environmental Health Officer**

18. I can confirm that I have no objections from an environmental health standpoint in respect of the above condition variation. (13<sup>th</sup> June 2020)

Previous comments of 13.06.20 did refer to the substitution of wording and also the content of the Traffic Management Plan (TMP) itself. It is apparent that there is a proposal for a wheel wash system, and I acknowledge that the TMP states all vehicles leaving the site will be inspected and any mud or debris will be cleaned off. The content of the report itself satisfies the requirements of this particular service. I should however add that the granting of planning consent and submission of a suitable and sufficient TMP wouldn't indemnify against statutory nuisance action being taken should this service receive a substantiated dust complaint subsequent to works commencing. Concerning vehicle movement times, I have observed from the decision notice for S/0277/19/FL that restrictions are in place and therefore fully expect this to be complied with as part of the TMP. (23<sup>rd</sup> June 2020)

#### **Longstanton Parish Council**

19. Having considered this application at their meeting on 13th July 2020, Longstanton Parish Council request that the application be put to Planning Committee and Longstanton Parish Council reiterate their objection to the development. Longstanton Parish Council have expressed concerns at every point of this planning application on the grounds of Highway Safety. It is noted that with this specific application, the applicant proposes to reverse construction lorries down a single lane track which leads to the development site and other dwellings, which also forms part of the public footpath. Longstanton Parish Council have already detailed in previous comments that pedestrians have to stand in the undergrowth for a small vehicle to pass.
20. The above responses are a summary of the comments that have been received. Full details of the consultation responses can be inspected on the application file.

## Representations from members of the public

21. Representations have been received from The Elms, Fews Lane (The Fews Lane Consortium Ltd) dated 10<sup>th</sup> July 2020, 27<sup>th</sup> July 2020, 20<sup>th</sup> August 2020, 23<sup>rd</sup> August 2020, 3<sup>rd</sup> September 2020, 8<sup>th</sup> September 2020 and the 28<sup>th</sup> September 2020 in relation to the application. The following concerns have been raised (as summarised):

- The CCC's response to the statutory consultation only addressed the changes to the existing planning permission sought by the applicant. This approach commits a straightforward error of law because in considering an application submitted under section 73 of the 1990 Act, the whole scheme now applied for must be considered in accordance with the relevant policy tests.
- Where the CCC has published highways development policies, members of the public may legitimately expect that the CCC will apply those relevant policies in regard to matters of highways development. In the case of this application, the CCC acted unlawfully by responding to the statutory consultation in a manner that failed to apply its published highways development policies in breach of the prospective claimant's legitimate expectation that it would do so.
- No location plan has been submitted for this application. Accordingly, the application relies on the location plan comprised within the application for the extant planning permission (S/0277/19/FL). That location plan fails to identify the land to which the application relates as is required under article 7(1)(c)(i) of the 2015 Order. Application 20/02453/S73 is therefore invalid and can not be determined pursuant to sections 65 and 327A of the 1990 Act.
- The land outlined in red on the location plan submitted for the extant permission (S/0277/19/FL) fails to include all the land necessary to carry out the proposed development as it does not include all of the land required for visibility splays, and no updated location plan was submitted as part of application 20/02453/S73.
- The land required for pedestrian visibility splays is not situated within the adopted public highway and is not included within the red line boundaries of the application site as show on the location plan.
- The location plan, which misidentifies the land to which the application relates, can not, in this instance, serve as the basis of a lawful public consultation as it fails to provide sufficient information to consultees as to the extent of the land to which the application, and therefore the consultation, relates. This information is essential in order to allow statutory consultees and members of the public to intelligently consider and respond to the consultation.
- There is no evidence that the required notices have been sent to the owners of the land to which the application relates as is required under article 13 of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

Officers of local highway authorities should be able to rely on the fact that application documents that have been validated by the local planning authority and published for consultation correctly depict the

land to which the application relates by outlining that land in red on the location plan, as is required under article 7. Whilst in an ideal world, local highway authority officers might be well versed in the nuances of planning law, this is usually not the case, and both statutory consultees and members of the public rely on the validation opinion of the local planning authority to establish that the land to which the planning application relates has been correctly identified on the location plan in accordance with the relevant legal standards. A local planning authority that consults on an application with an invalid location plan not only violates section 327A of the 1990 Act, but also potentially renders the consultation on the application unlawful on grounds of procedural impropriety. (See *R v North and East Devon Health Authority ex p Coughlan* [1999] EWCA Civ 1871, [2001] Q.B. 213 at [112].)

## **The site and its surroundings**

22. The property known as The Retreat comprises a single-storey dwelling off an unadopted road known as Fews Lane. The single storey dwelling is to be demolished and replaced with 2 two storey dwellings. Parking for these 2 new houses will take place from the site frontage onto Fews Lane. A further single storey dwelling is permitted to be erected in the former garden area to the rear of the two new properties and would complete the “build out of the site which began with the two existing new homes constructed to the west and north west of The Retreat.
23. Fews Lane is not an adopted highway and comprises a single vehicle width gravel/surfaced track. The lane currently serves as an access to a double garage serving 135 High Street and to 3 other dwellings (The Willows and the two other recently constructed dwellings to the west of the Retreat) as well as to development plots at The Retreat. The Lane varies in width and the hard surfaced track runs alongside a tree'd and vegetated area (to the north) with boundaries to No 135 and The Willows to the south side. A footpath (Public Right of Way) linking the Home Farm residential development to the south and west of Fews Lane with High Street emerges onto the south side of Fews Lane at a point to the immediate west of The Willows (and before the existing informal turning area beyond). The site lies within the designated village framework and is otherwise unconstrained.

## **The proposal**

24. The application seeks consent for the variation of condition 7 (traffic management plan) of planning permission S/0277/19/FL to amend the wording of the condition from a pre-commencement submission to a compliance through the approval of a traffic management plan.
25. The current wording of condition 7 of planning permission S/0277/19/FL is:

*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 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 reason given for the imposition of this condition was “In the interests of highway safety.”*

26. The application seeks to amend the wording of condition 7 to:

*The development hereby permitted shall be carried out in accordance with the Traffic Management Plan prepared by SLR Consulting, Version Final\_1 and dated December 2019*

27. The application is accompanied by the following supporting information:

- Traffic Management Plan prepared SLR dated December 2019

28. The applicant claims that the submitted Traffic Management Plan (TMP) is informed by lessons learnt during the construction in 2018 of the two existing new homes on the site. The TMP includes details of the arrangements for the delivery of materials, turning movements, enclosure of the site and contractor parking during the construction phase, as well as detailing areas for materials storage (keeping the on-site turning area clear) and the site office. The site circumstances in this case, notably the size of the development plot itself however, mean that space for parking within the site is limited. Accordingly, the Traffic Management Plan refers to provision for contractor parking at Digital Park in Station Road, Longstanton (noting that Few's Lane itself is of inadequate width to accommodate parking adjacent to the site). The Plan also proposes arrangements for addressing condition 15 (control of hours) in respect of vehicles arriving early. The provision of off-site contractor parking has meant however that the terms of part ii of the original planning condition (above) cannot be met and it is this departure from the original condition that has prompted this application.

## **Planning assessment**

29. The application is for the variation of a planning condition and is made under S73 of the Town and Country Planning Act 1990. National Planning Practice Guidance in respect of such applications states:

*“In deciding an application under section 73, the local planning authority must only consider the disputed condition/s that are the subject of the application – it is not a complete re-consideration of the application. A local planning authority decision to refuse an application under section 73 can be*

*appealed to the Secretary of State, who will also only consider the condition/s in question.*" [Paragraph: 031 Reference ID: 21a-031-20180615]

30. The principle of development of the dwellings on the site has already been established through the granting of the original application (S/0277/19/FL). Officers are satisfied that there has been no material change in policy or the surrounding context that requires a re-assessment of any other conditions attached to the approved development. The assessment for this application focuses on the proposed variation of condition 7, including consideration of the reasons for the condition and the acceptability of the proposed changes to the condition that are being sought. This centres upon the assessment of the acceptability of the submitted Traffic Management Plan having regard to highway safety.
31. Having regard to the representations received, officers have interpreted "highway safety" in this context to mean the safety of all users of the highway, including users of the PROW along the unadopted Few Lane and the existing users of the unadopted road that comprises Few Lane as well as pedestrian and vehicle users of the High Street passing the entrance to Few Lane.

### **Highway Safety – Traffic Management Plan**

#### Traffic Management Plan Assessment

32. The construction of any development gives rise to additional movements during the construction phase – including contractor vans and larger delivery vehicles (and some HGV) such as building suppliers delivery vehicles and concrete trucks etc. During the construction phase therefore, existing residents of Few Lane and users of the public right of way, together with those passing by the access will at certain times experience an increase in the number of vehicles, including delivery vehicles attending the site. The TMP estimates construction traffic trips each month to be in the order of approximately 40 van movements, 6 concrete lorries (in month 1 plus 4 more trips in total over the following 5 months), 3 X 8 wheelers, 2 low loaders and 6 lorry movements. The TMP provides details of the sites layout seeking to accommodate these movements, including an indication of the swept path and a turning area within the site – but reflecting its restricted size.
33. The Council has consulted the Local Highway Authority as the consultee for matters regarding highway safety. The Local Highway Authority, originally expressed concerns about the earlier TMP submission which resulted in the refusal of the earlier application S/2508/19/DC, for the following reasons:
- 1. The title page states that the document is a Transport Management Plan this should be amended to read Traffic Management Plan.*
  - 2. Page 2. Para. 2.2: Few Lane is a public footpath and as such is adopted public highway, this means that the public at large have the right to pass and repass. This should be made explicit.*

3. Page 3 Para. 3.3: *the purpose of the TMP is to control the operation and use of construction traffic accessing a construction site in relationship to the operation of the adopted public highway.*

4. Page 3 Para. 3.2.1: *details of any gates must be supplied within the TMP to ensure that they do not interfere with the use of the adopted public highway.*

5. Page 4 para. 3.2.2.:

*i. Justification for the level of proposed contractor parking must be provided.*

*ii. A swept path diagram showing how the bays as shown on Dwg. 11 must be provided as the bays seem to be impractical at present.*

6 Page 5 para 3.2.3.:

*i. The restriction on times of operation must also apply to any muck away vehicles and not just deliveries.*

*ii. Please request the applicant to provide details of how the proposed ban on parking in the surrounding residential streets will be enforced.*

*iii. The table showing the forecast of commercial vehicles that will visits the site,*

*demonstrates that the swept path diagram on Drawing 11 is inadequate to show that all delivery/muck away lorries can enter and leave in a forward gear. A swept path analysis for the largest commercial vehicle to visit the site must be provided.*

*iv. Details of how commercial vehicles exiting and entering Fews Lane will be*

*controlled must be provided.*

7. Page 6 para 3.2.5 *this should not form part of the TMP.*

34. Officers have noted the earlier response of the Highway Authority and its more recent consideration (reported above) of the revised submission. Officers accept the conclusions of the Local Highway Authority to the more recent submissions. Having specific regard to the relatively short length of Fews Lane, its character, variable width and surface material, officers consider that vehicle movements along it are likely to take place with care - so that both drivers of vehicles and pedestrians would be able to appreciate and address any potential for conflict. For larger vehicle movements (where the turning area is insufficient - because of the size of the site itself) officers have noted that the TMP proposes that vehicles would reverse into the site with the assistance of a "banksman" to maintain safety along Fews Lane during these manouvers. The Parish Council and third parties have expressed concern about this approach, but officers consider there to be few practical or safer alternatives to this approach for a development of this scale – where the number of large vehicle movements will be limited. The TMP commits to keep clear access to the existing homes along Fews Lane throughout the construction phase and to maintain the right of way clear of obstructions for pedestrians.

35. The third-party representations and Parish comments highlight a number of concerns surrounding access and movements of vehicles into and along Fews Lane. Insofar as any TMP can address these issues when the application site is of this size, officers are satisfied with the Highway Authority conclusions that the measures outlined in the TMP are appropriate. Vehicle speeds along Fews Lane itself are in officers view likely

to be low (a 5mph limit is proposed in the TMP) and subject to normal care and consideration, the risk to pedestrians and vehicle drivers using and entering/leaving Fews Lane is accordingly considered to be satisfactorily addressed by the TMP. At the access point into Fews Lane, intervisibility between vehicles or pedestrians on the High Street and Fews Lane, noting the existing footway width along High Street and the position of hedges and boundaries, has been judged to be appropriate. The Local Highway Authority officers are familiar with this site and have made it clear that they now find the TMP to be acceptable as it overcomes the concerns raised in S/2508/19/DC.

36. The Local Highway Authority has recommended an additional condition regarding the existing Public Right of Way to be constructed using bound material. Paragraph 48 of the officer committee report for S/0277/19/FL states that 'the requested works requiring the surface of Fews Lane to be constructed using a bound material' will be within the public highway (PROW) and therefore can be carried out under a Short Form Section 278 Agreement between the applicant and Cambridge shire County Council. Therefore, no condition is imposed in line with S/0277/19/FL.
37. There have also been substantial third-party representations in respect of the application concerning its validity, the details provided and the application by the County Council of its Highway Policies. Officers have considered these matters and remain satisfied that the application is valid, notwithstanding the representations submitted, and can therefore be determined by the Committee. The assessment of the proposals by County Highway officers reported above is also considered to be satisfactory – noting that the application of County Council policies are matters of judgment based upon the specific site circumstances. Officers have no reason to disagree with the conclusions of the County Highway officers in this matter, including on the matter of the need for an explicit visibility splay to be shown for pedestrians at the site entrance.
38. In relation to the point raised by the third party that there is no evidence that the required notices have been sent to the owners of the land to which the application relates as is required under article 13 of the Town and Country Planning (Development Management Procedure) (England) Order 2015. The applicant has signed certificate D and supplied the necessary documentation to evidence this.
39. Over the last six months or more a number of letters and emails between the Council and Fews Lane Consortium Limited ("FLCL") have been submitted in connection with the red line shown on the Location Plan for planning permission S/0277/19/FL – the original planning permission for this site.
40. On 13th November 2020 Fews Lane Consortium Ltd sent an email to the Council's legal officer which included the following:

“...In regards to the prospective judicial review claims concerning the proposed developments at [separate site identified], and The Retreat, Fewes Lane, Longstanton, the Consortium would like to thank the Council pre-action protocol responses. The Consortium disagrees with the positions asserted in the Council’s pre-action protocol responses and continues to maintain that the Council has no lawful authority to entertain these applications pursuant to S. 327A of the 1990 Act and article 7 of the DMPO 2015. The Consortium is likely to issue proceedings in regard to both applications as the pre-action protocol has now been completed....”

41. Proceedings have not to date been issued and the Council is waiting to hear from FLCL as to its intentions as to any proceedings. The Council does not agree that it has no lawful authority to entertain these applications pursuant to s. 327A of the 1990 Act and article 7 of the DMPO 2015. An extensive bundle of correspondence between FLCL and the Council (together with an index) is attached to this report. In the event that any further submissions are received that are material to the Committee’s consideration of this matter, officers will provide an update to the meeting. It remains the Council position however that the Committee are entitled to determine the application before them.

## **Planning balance and conclusion**

42. Taking into consideration the above points, including the site history, Parish Council comments, the third party representations and the advice from the Local Highway Authority, officers consider that the proposed rewording of condition 7, which has the effect of agreeing the measures in the submitted Traffic Management Plan, is acceptable. It is therefore recommended that planning permission is granted subject to conditions (with the revised wording to condition 7) imposed on planning permission S/0277/19/FL

## **Recommendation**

Officers recommend that the Planning Committee Approve the application subject to the following conditions and informative:

- 1 Conditions 3-6 and 8-16 of planning permission S/0277/19/FL (set out below as conditions 3-6 and 8-16) shall continue to apply to this permission. Where such conditions pertaining to 1S/0277/19/FL have been discharged, the development of 20/02453/S73 shall be carried out in accordance with the terms of discharge and those conditions shall be deemed to be discharged for this permission also.  
Reason To define the terms of the application.
- 2 The development hereby permitted shall be carried out in accordance with the approved plans as listed on this decision notice.

Reason: In the interests of good planning, for the avoidance of doubt and to facilitate any future application to the Local Planning Authority under Section 73 of the Town and Country Planning Act 1990.

- 3 The materials to be used in the construction of the external surfaces of the dwellings hereby permitted shall be as described in the application form or shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. Where materials are approved by the Local Planning Authority, the development shall be carried out in accordance with the approved details.  
(Reason - To ensure the appearance of the development is satisfactory in accordance with Policy HQ/1 of the South Cambridgeshire Local Plan 2018)
- 4 Prior to the first occupation of the development, full details of both hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. The details shall also include specification of all proposed trees, hedges and shrub planting, which shall include details of species, density and size of stock.  
(Reason - To ensure the development is satisfactorily assimilated into the area and enhances biodiversity in accordance with Policies HQ/1 and NH/6 of the adopted South Cambridgeshire Local Plan 2018)
- 5 All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed in writing with the Local Planning Authority. If within a period of five years from the date of the planting, or replacement planting, any tree or plant is removed, uprooted or destroyed or dies, another tree or plant of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.  
(Reason - To ensure the development is satisfactorily assimilated into the area and enhances biodiversity in accordance with Policies HQ/1 and NE/6 of the South Cambridgeshire Local Plan 2018)
- 6 Prior to the first occupation of the development a plan indicating the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment for each dwelling shall be completed before that/the dwelling is occupied in accordance with the approved details and shall thereafter be retained.  
(Reason - To ensure that the appearance of the site does not detract from the character of the area in accordance with Policy HQ/1 of the adopted South Cambridgeshire Local Plan 2018.)
- 7 The development hereby permitted shall be carried out in accordance with the Traffic Management Plan prepared by SLR Consulting, Version Final\_1 and dated December 2019 unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interest of highway safety

- 9 No development above slab level shall occur until schemes for the provision and implementation of foul and surface water drainage have been submitted to and approved in writing by the Local Planning Authority. The schemes shall be constructed and completed in accordance with the approved plans prior to the occupation of any part of the development or in accordance with an implementation programme agreed in writing with the Local Planning Authority.  
(Reason - To reduce the risk of pollution to the water environment, to ensure a satisfactory method of foul water drainage and to reduce the risk of flooding in accordance with Policies CC/7, CC/8 and CC/9 of the South Cambridgeshire Local Plan 2018).
- 10 All finished floor levels shall be a minimum of 300 mm above the existing ground level.  
(Reason - To reduce the risk of flooding in accordance with policy CC/9 of the South Cambridgeshire Local Plan 2018)
- 11 No development above slab level shall take place until a scheme has been submitted that demonstrates a minimum of 10% of carbon emissions (to be calculated by reference to a baseline for the anticipated carbon emissions for the property as defined by Building Regulations) can be reduced through the use of on-site renewable energy and low carbon technologies. The scheme shall be implemented and maintained in accordance with the approved details prior to the occupation of the development.  
(Reason - In accordance with policy CC/3 of the South Cambridgeshire Local Plan 2018 and paragraphs 148, 151 and 153 of the National Planning Policy Framework 2018 that seek to improve the sustainability of the development, support the transition to a low carbon future and promote a decentralised, renewable form of energy generation.).
- 12 The development hereby approved shall not be occupied a water conservation strategy, which demonstrates a minimum water efficiency standard equivalent to the BREEAM standard for 2 credits for water use levels unless demonstrated not practicable, has been submitted to and approved in writing by the local planning authority. Works shall be carried out in accordance with the approved details.  
(Reason - To improve the sustainability of the development and reduce the usage of a finite and reducing key resource, in accordance with policy CC/4 of the south Cambridgeshire Local Plan 2018.).
- 13 The dwellings hereby approved shall not be occupied until they have been made capable of accommodating Wi-Fi and suitable ducting (in accordance with the Data Ducting Infrastructure for New Homes Guidance Note) has been provided to the public highway that can accommodate fibre optic cabling or other emerging technology, unless otherwise agreed in writing with the Local Planning Authority.(Reason - To ensure sufficient infrastructure is provided that would be able to

accommodate a range of persons within the development, in accordance with policy TI/10 of the South Cambridgeshire Local Plan 2018.).

- 14 During the period of demolition and construction, no power operated machinery shall be operated on the site before 0800 hours and after 1800 hours on weekdays, or before 0800 hours and after 1300 hours on Saturdays, nor at any time on Sundays and Bank Holidays, unless otherwise previously agreed in writing with the Local Planning Authority. (Reason - To minimise noise disturbance for adjoining residents in accordance with Policy CC/6 of the South Cambridgeshire Local Plan 2018).
- 15 During the period of demolition and construction, no deliveries shall be made to and from the site between 0730 and 0930 hours and between 1500 and 1800 hours on weekdays or before 0800 hours and after 1300 hours on Saturdays, nor at any time on Sundays and Bank Holidays, unless otherwise previously agreed in writing with the Local Planning Authority. (Reason - To minimise noise disturbance for adjoining residents and to reduce potential conflicts with pedestrians, particular schoolchildren using Fewes Lane and High Street in accordance with Policy CC/6 and HQ/1 of the South Cambridgeshire Local Plan 2018)..
- 16 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) 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 unless expressly authorised by planning permission granted by the Local Planning Authority in that behalf. (Reason - In the interests of protection of residential amenity and the character of the area in accordance with policy HQ/1 of the South Cambridgeshire Local Plan 2018).

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# SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL Town & Country Planning (Development Management Procedure) (England) Order 2015 (as Amended) Procedure) (England) Order 2015

**NOTICE**

**DETAILS**

**MAP**

**STREET VIEW**



## **SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL**

### **Town & Country Planning (Development Management Procedure) (England) Order 2015 (as Amended) Procedure) (England) Order 2015**

### **Planning (Listed Buildings & Conservation Areas) Act 1990 Proposed Development Affecting Conservation Areas &/or the Setting of Listed Buildings**

20/02017/FUL - Convert the Existing Retail Unit 7 into 1 x Smaller (A1,D1) Retail unit and 4 x One Bedroom Flats. (Re-submission of 20/01109/FUL), De Freville House, High Green, Great Shelford

20/01799/FUL - Change of use of flat from dwelling to office, Grange Farm, High Street, Knapwell

20/02120/HFUL - Replacement of boundary fence and side gate that run along the footpath of Hardman Road, increasing the fence height to 2 meters. Removal of derelict garden shed in back garden and replacement of boundary line fence, 46 High Street, Foxton

20/02161/FUL - Demolition of existing dwelling, double garage and stores and construction of 4 No. dwellings and associated infrastructure, including access, parking, landscaping and ancillary works,

Land At And To The Rear Of 24 High Street, Coton

20/02209/HFUL - Internal alterations to relocate the kitchen to the rear extension and form a study/bedroom from existing kitchen area. To create an ensuite in the existing pantry area within flat roofed link. External alterations to the fenestration of the rear extension and upgrading of the flat roof to the link element, 53 Station Road, Fulbourn

### **Voice your concerns**

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- [Petition your local MP, council \(https://www.voiceregister.com\)](https://www.voiceregister.com)

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### **Notify council of problem**

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### **Problems reported nearby**

20/02210/LBC - Internal alterations to relocate the kitchen to the rear extension and form a study/bedroom from existing kitchen area. To create an ensuite in the existing pantry area within flat roofed link. External alterations to the fenestration of the rear extension and upgrading of the flat roof to the link element, 53 Station Road, Fulbourn

20/02150/HFUL - Single storey extension to detached garage and store room, 2 Tudor House London Road, Sawston

20/02211/FUL - Demolition of the existing dwelling and construction of 4 No. 1/2 Storey dwellings utilising previously approved access on neighbouring site, 36 South End, Bassingbourn

20/02205/FUL - Demolition of Existing Dwellings and Outbuildings and Construction of 1 No. Replacement 4 Bedroom Detached Self Build Property, 20 Stonebridge Lane, Fulbourn

20/01943/HFUL - Replacement of existing barn/outbuilding, Primrose Cottage, 1 Church Lane, Willingham

20/02084/HFUL - Single and two storey rear extensions plus front canopy, 1 The Green, Steeple Morden

20/02128/HFUL - Part single, part two storey rear extension and associated works, 9 Halatte Gardens, Great Shelford

20/02531/FUL - Barn replacement, Home Farm, Home Cottage, High Street, Graveley

20/02532/LBC - Barn replacement, Home Farm, Home Cottage, High Street, Graveley

20/01303/FUL - Change of use and associated works to revert from current use as shop unit and ancillary stores/ workshops to a terrace of 4 no dwelling houses, 20-24 Pierce Lane, Fulbourn

20/02529/S73 - Variation of conditions 2 (Reserved matters), 5 (Construction Environment Management Plan and a Construction Method Statement), 6 (Airborne Dust), 7 (Site waste management plan), 8 (Tree protection measures), 9 (Boundary Treatment), 10 (Siting and design of the screened storage for refuse), 14 (Renewable energy statement), 15 (Contamination), 16 (Noise insulation scheme or noise mitigation Strategy), 19 (Surface water drainage scheme), 20 (Surface water), 21 (Remediation Statement - Contamination), 22 (Scheme for disposal for surface water), 24 (Visibility splays), 26 (Recording of Industrial Heritage), 27 (Foul water solution), 28 (Archaeological works) and 29 (Fire hydrants) pursuant to planning permission S/0057/17/VC, Former Barrington Cement Works, Haslingfield Road, Barrington

20/02528/S73 - Variation of conditions 2 (Reserved matters), 5 (Construction Environment Management Plan and a Construction Method Statement), 6 (Airborne Dust), 7 (Site waste management plan), 8 (Tree protection measures), 9 (Boundary Treatment), 10 (Siting and design of the screened storage for refuse), 14 (Renewable energy statement), 15 (Contamination), 16 (Noise insulation scheme or noise mitigation Strategy), 19 (Surface water drainage scheme), 20 (Surface water), 21 (Remediation Statement - Contamination), 22 (Scheme for disposal for surface water), 24 (Visibility splays), 26 (Recording of Industrial Heritage), 27 (Foul water solution), 28 (Archaeological works) and 29 (Fire hydrants) pursuant to planning permission S/0057/17/VC, Former Barrington

Cement Works, Haslingfield Road, Barrington

20/02018/FUL - Refurbishment to incorporate a full over-haul of the mechanical and electrical services. Installation of a new AV system, installation of an Air Source Heat Pump (ASHP) to replace the current gas fired boiler. External fenced compound for ASHP and the installation of a PV array at roof level, St Andrews Church, Cambridge Road, Girton

20/02219/OUT - Outline planning permission for the erection of 1 No. one and a half storey dwelling and associated works with all matters reserved, Land Adjacent To 283, St Neots Road, Hardwick

A list of all planning applications received is available on our website. If you wish to comment about the applications send them in writing within 21 days (Unless otherwise specified) from the publication of this notice to the District Planning Officer, at the above address.

Dated 10 June 2020 Stephen Kelly – Joint Director of Planning & Economic Development at South Cambridgeshire & City Council

## **SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL**

### **Town & Country Planning (Development Management Procedure) (England) Order 2015**

#### **(as Amended) Procedure) (England) Order 2015**

#### **Major Development**

20/02529/S73 - Variation of conditions 2 (Reserved matters), 5 (Construction Environment Management Plan and a Construction Method Statement), 6 (Airborne Dust), 7 (Site waste management plan), 8 (Tree protection measures), 9 (Boundary Treatment), 10 (Siting and design of the screened storage for refuse), 14 (Renewable energy statement), 15 (Contamination), 16 (Noise insulation scheme or noise mitigation Strategy), 19 (Surface water drainage scheme), 20 (Surface water), 21 (Remediation Statement - Contamination), 22 (Scheme for disposal for surface water), 24 (Visibility splays), 26 (Recording of Industrial Heritage), 27 (Foul water solution), 28 (Archaeological works) and 29 (Fire hydrants) pursuant to planning permission S/0057/17/VC, Former Barrington

Cement Works, Haslingfield Road, Barrington

20/02528/S73 - Variation of conditions 2 (Reserved matters), 5 (Construction Environment Management Plan and a Construction Method Statement), 6 (Airborne Dust), 7 (Site waste management plan), 8 (Tree protection measures), 9 (Boundary Treatment), 10 (Siting and design of the screened storage for refuse), 14 (Renewable energy statement), 15 (Contamination), 16 (Noise insulation scheme or noise mitigation Strategy), 19 (Surface water drainage scheme), 20 (Surface water), 21 (Remediation Statement - Contamination), 22 (Scheme for disposal for surface water), 24 (Visibility splays), 26 (Recording of Industrial Heritage), 27 (Foul water solution), 28 (Archaeological works) and 29 (Fire hydrants) pursuant to planning permission S/0057/17/VC, Former Barrington

Cement Works, Haslingfield Road, Barrington

## **Development does not accord with the development plan**

20/02114/OUT - Outline planning permission for the Demolition of agricultural buildings and erection of up to five dwellings, access taken from Old Wimpole Road using previously approved (S/0829/18/FL)

with all matters reserved except for access, Kingston Pastures Farm, Old Wimpole Road, Kingston

20/02145/ADV - Replacement of existing signage and installation of new signage elements within the Costa Coffee Drive Thru site, Unit 2, Ermine Street, Cambourne

20/02159/FUL - New surface car park (providing 109 car spaces of which 9 are disabled bays, and 28 bicycle spaces) accessed directly from new access road and new single-storey cafe building with associated landscaping scheme, Cambridge City Crematorium, Huntingdon Road, Dry Drayton

20/02161/FUL - Demolition of existing dwelling, double garage and stores and construction of 4 No. dwellings and associated infrastructure, including access, parking, landscaping and ancillary works,

Land At And To The Rear Of 24 High Street, Coton

20/02196/ADV - Installation of 1 No. sign mounted on grey poles to the entrance of the site, and 1 No. sign mounted on the tall fence to the north east corner of the site, on the A10 approach from the M11, advising drivers to turn right at the traffic lights, Sports Ground, Cambridge Road, Hauxton

20/02201/FUL - Erection of a commercial building, compound and hard standing area (Re-submission of S/1729/19/FL), Wyndmere Farm, Ashwell Road, Steeple Morden

20/02211/FUL - Demolition of the existing dwelling and construction of 4 No. 1/2 Storey dwellings utilising previously approved access on neighbouring site, 36 South End, Bassingbourn

20/02188/S73 - Variation of condition 1 (Approved plans) and the removal of condition 2 (Materials) pursuant to approval of matters reserved application S/0230/20/RM to vary condition 1 to reflect the latest amended planning drawings to include CH19/LBA/527/RM-1-101 Revision A,

CH19/LBA/527/RM-1-102 Revision D. CH19/LBA/527/RM-1-103 Revision A and CH19/LBA/527/RM-1-104 Revision A and to remove Condition 2 as the materials to be used in the construction of the external surfaces of the buildings have been added to drawings

CH19/LBA/527/RM-1-102 Revision D and CH19/LBA/527/RM-1-103 Revision A respectively, Ryecroft Nursery, Station Road, Longstanton

20/02205/FUL - Demolition of Existing Dwellings and Outbuildings and Construction of 1 No. Replacement 4 Bedroom Detached Self Build Property, 20 Stonebridge Lane, Fulbourn

20/02111/S73 - Variation of conditions 2 (approved plans) and 4 (landscaping) of planning permission

S/3471/19/VC, Granhams Farm, Granhams Road, Great Shelford

20/02531/FUL - Barn replacement, Home Farm, Home Cottage, High Street, Graveley

20/02532/LBC - Barn replacement, Home Farm, Home Cottage, High Street, Graveley

20/02529/S73 - Variation of conditions 2 (Reserved matters), 5 (Construction Environment Management Plan and a Construction

Method Statement), 6 (Airborne Dust), 7 (Site waste management plan), 8 (Tree protection measures), 9 (Boundary Treatment), 10 (Siting and design of the screened storage for refuse), 14 (Renewable energy statement), 15 (Contamination), 16 (Noise insulation scheme or noise mitigation Strategy), 19 (Surface water drainage scheme), 20 (Surface water), 21 (Remediation Statement - Contamination), 22 (Scheme for disposal for surface water), 24 (Visibility splays), 26 (Recording of Industrial Heritage), 27 (Foul water solution), 28 (Archaeological works) and 29 (Fire hydrants) pursuant to planning permission S/0057/17/VC, Former Barrington Cement Works, Haslingfield Road, Barrington

20/02528/S73 - Variation of conditions 2 (Reserved matters), 5 (Construction Environment Management Plan and a Construction Method Statement), 6 (Airborne Dust), 7 (Site waste management plan), 8 (Tree protection measures), 9 (Boundary Treatment), 10 (Siting and design of the screened storage for refuse), 14 (Renewable energy statement), 15 (Contamination), 16 (Noise insulation scheme or noise mitigation Strategy), 19 (Surface water drainage scheme), 20 (Surface water), 21 (Remediation Statement - Contamination), 22 (Scheme for disposal for surface water), 24 (Visibility splays), 26 (Recording of Industrial Heritage), 27 (Foul water solution), 28 (Archaeological works) and 29 (Fire hydrants) pursuant to planning permission S/0057/17/VC, Former Barrington Cement Works, Haslingfield Road, Barrington

20/02453/S73 - Variation of condition 7 (Traffic Management plan) pursuant to planning permission

S/0277/19/FL to reflect the proposals in the Traffic Management Plan to substitute the current wording in Condition 7 with "The development hereby permitted shall be carried out in accordance with the Traffic Management Plan prepared by SLR Consulting, Version Final\_1 and dated December 2019" (Re-submission of 20/01547/S73), The Retreat, Fewes Lane, Longstanton

### **Development affecting a Public Right of Way**

20/02103/HFUL - Garage conversion, ground floor entrance extension and first floor front extension, 25 Bandon Road, Girton

20/02531/FUL - Barn replacement, Home Farm, Home Cottage, High Street, Graveley

20/02532/LBC - Barn replacement, Home Farm, Home Cottage, High Street, Graveley

20/02529/S73 - Variation of conditions 2 (Reserved matters), 5 (Construction Environment Management Plan and a Construction Method Statement), 6 (Airborne Dust), 7 (Site waste management plan), 8 (Tree protection measures), 9 (Boundary Treatment), 10 (Siting and design of the screened storage for refuse), 14 (Renewable energy statement), 15 (Contamination), 16 (Noise insulation scheme or noise mitigation Strategy), 19 (Surface water drainage scheme), 20 (Surface water), 21 (Remediation Statement - Contamination), 22 (Scheme for disposal for surface water), 24 (Visibility splays), 26 (Recording of Industrial Heritage), 27 (Foul water solution), 28 (Archaeological works) and 29 (Fire hydrants) pursuant to planning permission S/0057/17/VC, Former Barrington

Cement Works, Haslingfield Road, Barrington

20/02528/S73 - Variation of conditions 2 (Reserved matters), 5 (Construction Environment Management Plan and a Construction Method Statement), 6 (Airborne Dust), 7 (Site waste management plan), 8 (Tree protection measures), 9 (Boundary Treatment), 10 (Siting and design of the screened storage for refuse), 14 (Renewable energy statement), 15 (Contamination), 16 (Noise insulation scheme or noise mitigation Strategy), 19 (Surface water drainage scheme), 20 (Surface water), 21 (Remediation Statement - Contamination), 22 (Scheme for disposal for surface water), 24 (Visibility splays), 26 (Recording of Industrial Heritage), 27 (Foul water solution), 28 (Archaeological works) and 29 (Fire hydrants) pursuant to planning permission S/0057/17/VC, Former Barrington

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in Condition 7 with ";The development hereby permitted shall be carried out in accordance with the Traffic Management Plan prepared by SLR Consulting, Version Final\_1 and dated December 2019" (Re-submission of 20/01547/S73), The Retreat, Fewes Lane, Longstanton

A list of all planning applications received is available on our website  
If you wish to comment about the applications send them in writing within 30 days (Unless otherwise specified) from the publication of this notice to the District Planning Officer, at the above address.

Dated 10 June 2020 Stephen Kelly– Joint Director of Planning & Economic Development at South Cambridgeshire & City Council

## **SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL**

### **The Town and Country Planning (Modification and Discharge of Planning Obligations)**

#### **Regulations 1992**

20/02335/S106A - Modification of planning obligations (Affordable housing contribution) contained in a S106 Agreement dated 11 September 2019 pursuant to planning permission

S/1685/19/FL, Land At High Street / Monkfield Lane Cambourne.

A list of all planning applications received is available on our website  
If you wish to comment about the applications send them in writing within 14 days (Unless otherwise specified) from the publication of this notice to the District Planning Officer, at the above address.

Dated 10 June 2020 Stephen Kelly– Joint Director of Planning & Economic Development at South Cambridgeshire & City Council



- South Cambridgeshire Hall,, Cambourne Business Park,, Cambourne,, Cambs, CB23 6EA

## Comments

No comments were found.

**Please login to comment (/sign-in)**

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To: South Cambridgeshire District Council – Planning  
From: James Stringer, Asset Information Definitive Map Officer  
Ref: P103  
Date: 13<sup>th</sup> April 2021

## Report on the proposed diversion of Cambourne Public Footpath No. 7

### 1 Purpose

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- 1.1 To report on the proposed diversion of Public Footpath No. 7 in the parish of Cambourne.
- 1.2 Appendix **A** comprises a copy of the agent's application. Appendix **B** includes a copy of the relevant planning application decision notice and site plan. Appendix **C** is a copy of the memorandum of agreement between Cambridgeshire County Council and South Cambridgeshire District Council. A map showing the effect of the proposals is at Appendix **D**. Consultation responses received by the County Council can be found at Appendix **E**. The NMU Diversion Policy Matrix can be found at Appendix **F**. A copy of the delegated decision taken by the County Council's Assistant Director: Highways can be found at Appendix **G**.

### 2 Background

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- 2.1 An application has been received by Randell Thorp on behalf of the landowner, Cambourne West Consortium, for the diversion of Cambourne Public Footpath No. 7. The application to divert the footpath falls to be determined by the relevant planning authority under section 257 of the Town and Country Planning Act 1990. A copy of this Public Path Order application is attached at Appendix **A**.
- 2.2 The landowner considers that a diversion order is necessary in order to implement the approved development of Cambourne West under outline permission S/2903/14/OL and the reserved matters application for the strategic landscaping for phase one under permission S/4161/19/RM (see Appendix **B**).
- 2.3 In February 2007, South Cambridgeshire District Council entered into an Agreement with Cambridgeshire County Council providing that all Public Path Diversion Order applications under section 257 of the Town and Country Planning Act 1990 should be processed by the County Council, acting as agents for the District Council. A copy of the Agreement explaining the procedure is attached at Appendix **C**.
- 2.4 The application for a Public Path Order was made to Cambridgeshire County Council on the 6<sup>th</sup> December 2019. A map showing the effect of the proposal is at Appendix **D**.

- 2.5 Public Footpath No. 7 was first recorded on the Definitive Map and Statement (the legal record of Public Rights of Way) for the former county of Cambridgeshire in 1952. At this time, it fell within the parish boundaries of Caxton. The footpath provided a connection between Ermine Street (A1198) and Swansley Wood Farm.
- 2.6 The path historically terminated at Swansley Wood Farm with no onward public access to Cambridge Road (now A428). The path has therefore been a 'dead-end' route since its first recording on the 1952 Definitive Map and Statement. The new termination point is located approximately 165 metres south from the previous termination point. It is not considered that any alternative provision is necessary to reach Swansley Wood Farm.
- 2.7 Following The South Cambridgeshire District Council (Reorganisation of Community Governance) Order 2017, this path now falls within the parish boundaries of Cambourne.

### 3 Site Description

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#### Existing public footpath (A-B)

- 3.1 The existing footpath starts at Ermine Street (A1198) at OSGR TL 2999 5964 (Point A on the plan shown at Appendix D) and proceeds in a generally north-easterly direction cross-field for a distance of approximately 729 metres to a point on the south-western corner of Swansley Wood Farm at OSGR TL 3047 6018 (Point B). The total length of existing public footpath is 729m.
- 3.2 There is an existing timber footbridge crossing a ditch adjacent to the A1198 at Point A. This is maintained by the County Council's Structures Team. The path is currently signed from Point A.
- 3.3 There are no other gaps, gates, stiles or any other highway structures (i.e. culverts or steps) on the existing route.
- 3.4 The footpath is currently subject to a Temporary Traffic Regulation Order (TTRO) to close the route while groundworks commence for the Cambourne West development. The TTRO is in effect until 30<sup>th</sup> April 2021. The path is no longer physically defined on the ground because of ongoing groundworks at Cambourne West.
- 3.5 The footpath does not have a recorded width in the Definitive Statement. The land over which the existing route runs is not covered by any protected designation. This land forms part of an allocated "Strategic Site" for major housing development by South Cambridgeshire District Council's Local Plan.
- 3.6 The footpath is maintainable at public expense by the County Council, as Highway Authority. However, the path ran over an arable field and therefore much of the past

responsibility was with the landowner to ensure that crops were cleared from the route and the surface is reinstated after ploughing.

- 3.7 The existing footpath egresses onto the A1198 where vehicles are approaching a roundabout. The A1198 is a heavily used A-road providing strategic connections between Royston, Cambourne, the A14, Godmanchester and St Ives. There is no footway provision along the A1198, however there is a wide verge and visibility along the carriageway.

#### Proposed public footpath (C-D-E-F-G)

- 3.8 The proposed path would commence from a newly constructed roundabout at OSGR TL 3010 5959 (Point C) and proceed in a generally but varying north-north-westerly direction for 289 metres to a point at OSGR TL 2996 5982 (Point D), then east-north-easterly direction for 232 metres where it will meet a newly constructed carriageway at OSGR TL 3018 5987 (Point E). The path then continues in a varying northerly then north-easterly direction for 303 metres to a point at OSGR TL 3035 6006 (Point F). The path continues in a south-easterly direction for 26 metres to meet a proposed adoptable cycleway at OSGR TL 3038 6005 (Point G).
- 3.9 The total length of the proposed path is 849m.
- 3.10 The proposed path would terminate at a proposed cycleway which is to be offered to the County Council for adoption under Section 38 of the Highways Act 1980.
- 3.11 The section between Points C and D will form part of a wider perimeter bridleway being proposed at a later stage of development. However to future proof the design now, it is proposed that the section between Points C and D has a recorded width of 5.5 metres (3 metres of constructed hoggin path with suitable equestrian grass verge) and the section between Points D and G would have a recorded width of 2 metres (1.8 metres of constructed hoggin path with suitable grass verge).
- 3.12 The applicant has indicated that they may wish to install cycle chicanes where the path crosses or terminates at proposed internal estate roads (two at Point E and one at Point C). This will be subject to separate permissions sought from the County Council and are not considered as part of this diversion.
- 3.13 No other structures such as gates, culverts, bridges, steps or boardwalks are proposed as part of this diversion proposal. As such, no internal authorisation or approval is required from colleagues such as Watercourse Consent or Structural approval.
- 3.14 New signage will be required as a result this proposal. This will be undertaken by the applicant when required by the County Council.
- 3.15 The proposed footpath would be an unbound 'hoggin' path. The proposal is in accordance with the Cambourne Highway Design Guide which informed the NMU design of Upper, Greater and Lower Cambourne.

## 4 Legal Framework

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4.1 Section 257 of the Town and Country Planning Act 1990 allows that:

‘(1) Subject to section 259, a competent authority may by order authorise the stopping up or diversion of any footpath, bridleway or restricted byway if they are satisfied that it is necessary to do so in order to enable development to be carried out—

- (a) in accordance with planning permission granted under Part III, or
- (b) by a government department.

(2) An order under this section may, if the competent authority are satisfied that it should do so, provide—

- (a) for the creation of an alternative highway for use as a replacement for the one authorised by the order to be stopped up or diverted, or for the improvement of an existing highway for such use;
- (b) for authorising or requiring works to be carried out in relation to any footpath, bridleway or restricted byway for whose stopping up or diversion, creation or improvement provision is made by the order;
- (c) for the preservation of any rights of statutory undertakers in respect of any apparatus of theirs which immediately before the date of the order is under, in, on, over, along or across any such footpath, bridleway or restricted byway;
- (d) for requiring any person named in the order to pay, or make contributions in respect of, the cost of carrying out any such works.’

4.2 An Order shall come into effect once the new route has been certified by either the order-making authority or the highway authority as being of a satisfactory standard for public use. The County Council as highway authority will undertake the certification.

4.3 The Equality Act 2010 consolidated previous disability legislation. There is currently little formal guidance on how the Act interacts with existing rights of way legislation. However, it is generally understood to require order-making authorities to take into account the reasonable needs of disabled people (using the term in its broadest sense) in considering changes to the rights of way network. The Act requires authorities to be more proactive in recording their thought-processes in making their decisions.

4.4 The Crime and Disorder Act 1998 states that the District Council as a relevant authority has a duty to consider the impact of all its functions and decisions on crime and

disorder in its area with due regard to the need to all it can reasonably do to prevent crime and disorder (including anti-social behaviour and other behaviour adversely affecting the environment).

## **5 Cambridgeshire County Council Policy (including maintenance)**

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- 5.1 The County Council's own Non-Motorised User (NMU) policy (approved by Highways & Community Infrastructure Committee on 21<sup>st</sup> February 2017 and replacing the previous Public Path Order Policy) requires that certain criteria are met if a public path order is to be made.
- 5.2 The policy is applicable to any new or diverted NMU route which would become maintainable at public expense. The relevant criteria is made up of a numerically scored set of criteria which consider accessibility relating to the County Council's duty under the Equality Act 2010; the benefit to the Authority and communities from resolving long term maintenance problems; the benefit to the Public Rights of Way (PRoW) network; and the benefit to landowners from improved land management.
- 5.3 The County Council reserves the right to refuse to make an Order where it feels the criteria of the legislation are not met, even where consultation responses suggest there are no public objections.
- 5.4 Within the Cambridgeshire Rights of Way Improvement Plan (ROWIP), several Statements of Action are listed which identify specific ways in which issues that the Rights of Way network face can be addressed now and in the future. Any proposal to divert is not considered in conflict with the Statements of Action set out in the Cambridgeshire ROWIP.

## **6 Consultations**

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- 6.1 The local Ramblers' Association, the British Horse Society, South Cambridgeshire District Council, Cambourne Parish Council, local members, the prescribed user groups and the utility companies were all consulted about the proposals. The following replies have been received (copies are attached as Appendix E):
- 6.2 No objection was received by the Ramblers' Association, Virgin Media and Anglian Water.
- 6.3 No other responses were received.

## **7 Grounds for diversion: Town and Country Planning Act 1990 and Other Legislation**

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- 7.1 The re-routing of the public footpath from its existing route is required to enable the strategic landscaping of the Cambourne West Phase 1 development. Those works which this Order would enable have been granted planning permission by the Local Planning Authority.

- 7.2 It is therefore considered that the diversion of this footpath is necessary to implement a planning permission granted under part III of the Town and Country Planning Act 1990. Section 1 (a) of Section 257 TCPA 90 is therefore satisfied.
- 7.3 The applicant has agreed to undertake the necessary works to implement the proposed new route at their own expense. These works will be subject to certification by the County Council as the Local Highway Authority.
- 7.4 The rights of statutory undertakers will not be affected. It is therefore considered that Subsection 2 of Section 257 TCPA 90 is satisfied.
- 7.5 The proposal is not considered to be in conflict with the provisions of the Equality Act 2010 as the diverted route does not proposed any features or structures that would restrict or limit its use by any particular group or groups of users. Part of the diverted route is proposed to be upgraded to a public bridleway as part of later stages of the Cambourne West Development.

## **8 Grounds for diversion: Cambridgeshire County Council criteria including Maintenance Liability**

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- 8.1 This proposal has been assessed against the County Council's NMU Diversion policy. The NMU diversion assessment can be found at Appendix F. This proposal scored a total of 23 out of a possible 30 points, representing a score of 76%. The threshold score for an application to be considered is 21.
- 8.2 Of the six criteria which must be met for an application to be considered, all but one have been fully met.
- 8.3 The existing footpath is not currently available on the ground as it is subject to a TTRO which closes the route to enable groundworks to proceed until April 2021. As full due processes have been followed in temporarily closing the path, it is considered that this requirement is waived by the Director in this instance.
- 8.4 Pre-application consultations have been carried out by the applicant. No objections were received during that consultation period. Additionally, no objections were maintained during a four week period of consultation undertaken by the County Council.
- 8.5 The proposed width of the diverted path will meet or exceed the minimum requirements of the NMU policy.
- 8.6 The proposed footpath is 849 metres in length, approximately 120 metres longer than the existing path at 729 metres. Whilst this is a noticeable increase in length, the path will provide for ongoing connections across the Cambourne West development, an improvement on the current footpath which is a dead-end path at Swansley Farm.

- 8.7 There are also proposed to be a large number of other routes, either as part of the adoptable road network or informal permissive routes which will provide users with considerable choice when travelling between their particular origin and destination. Other routes may therefore provide a more direct and convenient link for their particular journey.
- 8.8 This footpath has been designed in accordance with the Cambourne Highway Design Guide to minimise, as much as possible, any increases in maintenance liability as a result of this proposal.
- 8.10 It is felt that the impact on the County Council's maintenance liability has been fully considered, and whilst it may increase, it is in line with the County Council's expectations of the Cambourne West Development and has been appropriately mitigated as much as possible.
- 8.11 The proposed new termination point (Point G) is located on a new Cycleway which is proposed by the Cambourne West development and being offered to Cambridgeshire County Council for adoption. The new termination point is located approximately 165 metres south from the previous termination point at Point B. Point B was a dead-end termination point with no onward public access. It is not considered that any alternative provision is necessary to reach Point B.
- 8.12 The proposal is in-line with existing permissions granted by South Cambridgeshire District Council. Whilst the wider approved planning is likely to have some negative impact on the enjoyment of the existing path as the land use changes, the provision of a new, year round path with improved accessibility is likely to have a positive impact on public enjoyment.
- 8.13 Given the approved planning layout on this site, the proposed diversion of the footpath is considered the most suitable and appropriate alignment, meeting the criteria set out in the NMU policy.
- 8.14 Consideration should be given to the Cambridgeshire Rights of Way Improvement Plan (ROWIP). It is considered that this proposal supports the aims of the ROWIP under:
- SoA2: A safer and health-enhancing activity, as it enables increased access to PRoW to facilitate healthy lifestyles as an valuable part of the wider Cambourne West development.
  - SoA3: 72,500 new homes, as it ensures that this public footpath is protected from inappropriate use during development and that new facilities are provided to a high standard.

- SoA7: Develop Definitive Map and Other Records, as it allows for a historically dead-end path to be diverted to provide wider connectivity, as well as enabling the recording of a definitive width and more accurate statement.
- 8.15 The proposal is also considered to be in accordance with the Cambridgeshire Health and Wellbeing Strategy including:
- Priority 5: Create a sustainable environment in which communities can flourish
- 8.16 On the 16<sup>th</sup> March 2021, Cambridgeshire County Council resolved that it had no objection to the diversion of this public footpath. A copy of the County Council decision can be found at Appendix G.

## 9 Conclusions

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- 9.1 It is considered that the application to divert Public Footpath No. 7, Cambourne meets the requirements of Section 257 of the Town and Country Planning Act 1990.
- 9.2 The decision taken the County Council on the 16<sup>th</sup> March 2021 confirmed that the application would not have any detrimental impact on the connectivity of the surrounding highway network, or place any additional burden on alternative routes.

## 10 Recommendations

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- 10.1 That South Cambridgeshire District Council approves the making, and confirmation (subject to no objection) of a Public Path Diversion Order under Section 257 of the Town and Country Planning Act 1990.
- 10.2 That South Cambridgeshire District Council indicates its formal decision to Cambridgeshire County Council, as agents for the District Council.

### LIST OF DOCUMENTS

<b>A</b>	Copy of diversion order application
<b>B</b>	Copy of planning application No. S/4161/19/RM
<b>C</b>	Copy of Memorandum of Agreement between the District Council and Cambridgeshire County Council
<b>D</b>	Map showing proposed diversion
<b>E</b>	Copies of consultation responses
<b>F</b>	NMU Diversion Policy Matrix
<b>G</b>	Decision Memo for CCC Assistant Director: Highways

- KEY**
- Site boundary
  - Strategic landscape
  - Development
  - Proposed school site
  - Proposed employment area
  - Proposed community centre
  - Proposed sport pavilion/ parking
  - Proposed primary and secondary roads spine road
  - Proposed 4m wide primary cycleway
  - Proposed 3.5m wide primary cycleway
  - Proposed 3.5m wide secondary cycleway
  - Proposed 2m wide primary footway
  - Proposed 2m wide secondary footway
  - Diverted Public Right of Way
  - Proposed 3m wide bridleway
  - Existing Public Right of Way
  - Indicative tertiary roads accessing parcels
  - Proposed raised table
  - Proposed public squares
  - Existing vegetation
  - Proposed woodland
  - Proposed hedging
  - Proposed standard trees
  - Proposed avenue
  - Proposed orchard
  - Proposed allotment area
  - Proposed 6-10 m wide swale
  - Proposed SuDS pond
  - Proposed Sheepfold entrance pond
  - Proposed ditch
  - Proposed NEAP
  - Proposed LEAP
  - Proposed SIP
  - Proposed BMX track
  - Retail
  - Bring site
  - Nursery
  - Approximate location of the pumping station

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**REVISIONS**  
 D 09\_04\_2019 MP  
 Updated to reflect the current proposal of the PH18MA  
 E 17\_12\_2020 CG  
 Updated with latest planning approved plot developments (Swansley and Sheepfold)

To: Cambridgeshire County Council acting as agent for the Local Planning Authority

**TOWN AND COUNTRY PLANNING ACT 1990  
APPLICATION FOR AN ORDER TO PERMANENTLY DIVERT  
A PUBLIC RIGHT OF WAY**

Name of applicant: Lindsay Cordall (Agent)  
Address Randall Thorp LLP, Canada House, 3 Chepstow Street  
Manchester, M1 5FW  
Tel. (work) 0161 228 7721 Tel. (home) n/a

I hereby apply for the diversion of the footpath known as  
Cambourne Footpath 7 under s.257 of the Town and Country Planning Act  
1990 and undertake, if an order for the diversion of the path is made, to carry out  
such work on the diverted route of the path as may be required to bring the path into  
a fit condition for public use to the satisfaction of the County Council (the Highway  
Authority), prior to the confirmation of the order.

(\*Delete the term that does not apply.)

Signed



Date 6th December 2019

**Consent of other landowner/s and other requirements**

Written consent of any other landowner/s affected by your proposed diversion (for both the existing line and proposed new line) must be obtained prior to submission.

A copy of the County Council's requirements for making diversion orders can be found at the end of this application form. The County Council will require all of these to be met. Please note in particular:

The requirement for pre-application consultations: The applicant must consult with the relevant Parish Council and local user groups, and must append copies of any correspondence to this application

**The path to be diverted**

Parish: Cambourne. No: Footpath 7  
From Swansley Farm OS grid ref. TL 304601  
To Ermine Street OS grid ref. TL 299596  
General description of path: unsurfaced route over agricultural land

**Landowner – please provide a map showing landownership/other interests**

Name: Cambourne West Consortium  
Address: c/o Randall Thorp LLP, Canada House, 3 Chepstow Street, Manchester, M1 5FW

**Lessee/tenant**

Name : not applicable  
Address: Not applicable

**Occupier**

Name: not applicable  
Address: not applicable

### **Reasons for the diversion**

Local Planning Authority: South Cambridgeshire District Council

Planning application No: S/2903/14/OL and S/4161/19/RM

Date of Planning Permission: 29/12/2017

Description of proposed development:

2350 dwelling residential development, including new schools, community facilities, sports fields, retail and employment land. Also, Country Parks, wetlands, wildflower meadows, woodlands, play areas, orchards and allotments.

### **The proposed new route of the path**

Please enclose a signed and dated plan, preferably at scale of not less than 1:2,500 and based on an Ordnance Survey map.

From Swansley Farm OS grid ref. TL 304601

To Proposed bridleway OS grid ref. TL 299596

**General description of new path:** Diverted footpath to follow route through new country park via new rolled stone path and shared pedestrian/ cyclepath. See attached plan for route.

### **Landowner**

Name: Cambourne West Consortium

Address: c/o of agent, see above

### **Lessee/tenant**

Name: not applicable

Address: not applicable

### **Occupier**

Name: not applicable

Address: not applicable

### **Other Legal Interests**

Please give details of any other person(s) having a legal interest in the land over which the right of way is to be diverted, for example other landowners, mortgagees or other persons having an easement over the land:

not applicable

Has the written consent of all such persons been obtained?

Yes/no [Delete as applicable]

The consents must accompany this application, together with a map showing all ownership and legal interests.

## **Pre-application consultations**

Please append copies of all correspondence with user groups and the relevant Parish/Town/City Councils. Have any objections been raised?

None

## **Works**

Following receipt of this application, if not already undertaken, the County Council's rights of way officer will contact you to arrange to meet you to inspect the proposed new route and to agree the works that will be needed to bring it into a fit condition for use as a public path. These works will be confirmed in writing following the site inspection. Please note that the Council will require a minimum width of 2m to be provided for the new route of a public footpath, and a minimum of 4m for the new route of a public bridleway. The new path will be signposted and/or waymarked to the extent deemed necessary by the Council.

## **Coming into operation of an alternative route**

Please note that the existing route of the path to be stopped up will **not** be extinguished until an officer of the Rights of Way Team acting on behalf of the Highway Authority (Cambridgeshire County Council) has certified that the new route of the alternative path has been provided on the ground to a suitable standard for use by the public. It is the applicant's responsibility to ensure that works to provide the new route of the path are completed.

## **Recovery of fees and costs**

Under the 'Local Authorities (Recovery of Costs for Public Path Orders) Regulations 1993 as amended by SI 1996 No 1978, the County Council may recover from the applicant the reasonable administrative costs of processing applications for, and making, public path orders. The County Council will invoice you for:

- the administrative costs of processing your application up to the making of a public path order, as set out in the Cambridgeshire Highway Records Guide which contains a Schedule of Charges that are available at [www.cambridgeshire.gov.uk/highwaysearches](http://www.cambridgeshire.gov.uk/highwaysearches);
- staff travelling expenses @ 45p per mile plus VAT;
- the cost of inserting one Public Notice in a local newspaper at the time of the making of the order, one Public Notice in a local newspaper at the time of the confirmation of the order and one Public Notice in a local newspaper at the time of the coming into operation of the order

The costs of taking an opposed order to a public inquiry will be met by the County Council or District Council, but the County Council will expect the applicant to provide their own legal representation at the inquiry. Please note that both Councils reserve the right to decline to proceed to a public inquiry for an opposed order.

For further information see the County Council's guidance:

- *Guidance and Check List for Public Path Order Applicants*
- *Public Rights of Way – A guide for planners and developers* available on our website at

<http://www.cambridgeshire.gov.uk/rightsofway>

## Highways Service – Asset Information Definitive Map Team: Data Protection Privacy Notice

We collect and use information about you - such as your name, address, email address, telephone number, and payment details - so that we can provide you with our services acting in our capacity as the Highway Authority and Commons Registration Authority under the Commons Registration Act 1965, Highways Act 1980, Wildlife & Countryside Act 1981, Town & Country Planning Act 1990, Freedom of Information Act 2000, Environmental Information Regulations 2004 and the Commons Act 2006.

Full details about how we use this data and the rights you have around this can be found in our privacy notice at [www.cambridgeshire.gov.uk/privacy](http://www.cambridgeshire.gov.uk/privacy). If you have any queries, please contact the Data Protection Officer at [data.protection@cambridgeshire.gov.uk](mailto:data.protection@cambridgeshire.gov.uk). The national regulator for Data Protection is the Information Commissioner's Office: <https://ico.org.uk/>

### Statement

I hereby agree to put the new route(s) into a fit condition, as approved by the Council, for use by the public within 28 days of a request by the Council to do so.

I hereby undertake to defray any compensation which becomes payable in consequence of the coming into operation of the order, and to pay in full the County Council's administrative costs of making the order and the costs of the public notices.

I also undertake with Cambridgeshire County Council to meet in full the requirements of any statutory undertaker in respect of any apparatus which may be over, in or under the right of way in respect of which I am making this application. I understand that the consent of the statutory undertakers (i.e. gas, water, electricity, telecommunications, the Post Office and the Civil Aviation Authority) is required before the order can be confirmed by the council and that their consent may be conditional on my carrying out works to protect the statutory undertakers' apparatus and/or rerouting it. (The Council will consult with statutory undertakers on your behalf.)

I have read and understand this application and make my application acknowledging the conditions specified in it.

Signed:



Date 6th December 2019

## **Public Path Diversion Orders – Cambridgeshire County Council requirements for making an order**

### **Diversions**

- Pre-application consultations have been carried out with the prescribed bodies
- Where possible, a suitable alternative path is provided for every path that is to be stopped up under s257 Town & Country Planning Act 1990
- The proposed new routes of paths are reasonably convenient to the public when compared with the original routes
- The Parish Council does not object to the proposals
- No objections are received to the proposals during the statutory consultation period prior to making an order. However, the County Council will review this criterion in individual cases in light of objections and potential public benefit of the proposal.
- The proposed new route is not less convenient for maintenance than the original
- The maintenance burden on the County Council of the new route is no greater than that of the original. If the maintenance burden is greater, the landowner may be required to enter into a maintenance agreement with the County Council as Highway Authority
- A minimum width of 2m is provided for the new route of a public footpath, and a minimum of 4m for the new route of a public bridleway. In exceptional cases, e.g. cross-field paths, it may, taking into account all the available facts, require such a width as it considers reasonable and appropriate.
- That all works needed to bring the new route of the path into a suitable condition for use by the public are carried out at the expense of the landowner and to the Highway Authority's specifications, unless otherwise agreed.

### ***Pre-application consultations***

*Applicants are advised that prior to formally submitting their diversion or extinguishment application to the Rights of Way & Access Team, they must complete informal consultations with the prescribed bodies (list attached). This will identify at an early stage whether the proposal is likely to be accepted by the public, and all responses received should be attached to the application form.*

## List of Statutory Consultees

NB Please select the relevant Ramblers Association Group for your area. Be aware that it may be appropriate to consult more than one group if your location is near one or more RA-represented areas.

The relevant Parish Council	
Ramblers Association 2 <sup>nd</sup> Floor Camelford House 87-97 Albert Bank LONDON SE1 7TW	Mrs Alysoun Hodges <b>East Cambridgeshire Ramblers Group</b> 88 West Fen Road, Ely CB6 3AA e-mail: <a href="mailto:paul@paulhodges.wanadoo.co.uk">paul@paulhodges.wanadoo.co.uk</a> <b>NB <u>Except</u> for the parishes listed under <i>Newmarket Ramblers</i></b>
Auto-Cycle-Union Auto-Cycle-Union House Wood Street RUGBY CV21 2YX	Steve Rossin Huntingdonshire Ramblers Association 6 De Beche Close Papworth Everard CAMBRIDGE CB23 3UP Email: <a href="mailto:steve.hel@btinternet.com">steve.hel@btinternet.com</a>
Open Spaces Society – Cambridgeshire Mrs Alysoun Hodges 88 West Fen Road Ely CB6 3AA e-mail: <a href="mailto:paul@paulhodges.wanadoo.co.uk">paul@paulhodges.wanadoo.co.uk</a>	Dr R & Mrs J Moreton Joint Footpath Secretaries <b>South Cambridgeshire Ramblers Association Group</b> 23 Emery Street CAMBRIDGE CB1 2AX
Open Spaces Society 25A Bell Street HENLEY-ON-THAMES RG9 2BA	Mr G Thomas <b>Fenland Ramblers Association</b> Coach House 6 Chapel Road WISBECH PE13 1RH
Byways and Bridleways Trust 57 Bowers Mill, Branch Road, Barkisland, HALIFAX HX4 0AD e-mail: <a href="mailto:notices@bywayandbridleway.net">notices@bywayandbridleway.net</a>	Paul Cutmore <b>Cambridge City Ramblers Group</b> 12 Topcliffe Way CAMBRIDGE CB1 8SH e-mail: <a href="mailto:ptcutmore@cix.co.uk">ptcutmore@cix.co.uk</a>
British Horse Society Stoneleigh Deer Park KENILWORTH CV8 2XZ	Phil Prigg <b>Newmarket Ramblers Group</b> 1 Edgeborough Close Kentford NEWMARKET CB8 8QY
Lynda Warth British Horse Society Access and Bridleways Officer for Cambs 53 Bar Lane Stapleford Cambridge CB22 5BJ e-mail: <a href="mailto:lyndawarth@hotmail.co.uk">lyndawarth@hotmail.co.uk</a>	Newmarket RG covers the following parishes in Cambs: <i>Ashley, Brinkley, Burrough Green, Cheveley, Chippenham, Dullingham, Kennett, Kirtling, Snailwell, Stetchworth, Westley Waterless and Woodditton</i>

Our Ref: S/4161/19/RM  
Portal Ref: PP-08146891

4 May 2020



John Brindley  
Cmyk  
Cmyk, 6 The Gavel Centre, Porters Wood,  
St Albans, AL3 6PQ

South Cambridgeshire Hall  
Cambourne Business Park  
Cambourne  
Cambridge  
CB23 6EA

[www.scams.gov.uk](http://www.scams.gov.uk) | [www.cambridge.gov.uk](http://www.cambridge.gov.uk)

Dear Sir/Madam

**SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL**  
**Application for Approval of Reserved Matters**

Proposal: Reserved Matters for Strategic Landscaping for phase 1 following outline planning permission S/2903/14/OL. The Outline application was EIA development and an Environmental Statement was submitted.

Site address: West Cambourne Proposed Development Site Sheepfold Lane  
Cambourne Cambs

Your client: N/A

Further in the above matter, please find enclosed our formal decision notice relating to your client's application for approval of reserved matters. Please be sure to remind your client that the scheme should be carried out in line with the approved plans. This will avoid the need for any enforcement action.

**Making changes to the approved plans**

In the event that you wish to change your proposal, please contact your case officer who will advise you whether it is possible to do so under a section 73 variation of condition application, or whether a new reserved matters submission is required. In either case you will have to complete a form and provide fresh drawings.

**Important information regarding conditions**

If you have been granted Planning Permission / Listed Building Consent / Advertisement Consent you may wish to get started immediately, however it is always important to carefully read the decision notice in full before any work begins.

The majority of planning decisions have conditions attached. Some conditions request further information that requires approval by the Local Planning Authority before any

development takes place ('pre-commencement'). All conditions are set out on the decision notice.

Under Section 7 of the Planning (Listed Buildings and Conservation Areas) Act 1990, it is a criminal offence to carry out unauthorised works to a listed building. Under Section 9 of the Act, a person shall be guilty of an offence should they fail to comply with any condition attached to the consent.

### **How do I discharge the conditions**

Please note that the process takes up to eight weeks from the date the Local Planning Authority receives a valid application. Therefore it is important to plan ahead and allow plenty of time before work is due to commence.

You need to fill in a form to submit your request to discharge conditions, and accompany the relevant details/samples. You can download the necessary form by using the following link: <https://www.greatercambridgeplanning.org>

Alternatively you can submit an application to discharge the conditions through the Government's Planning Portal website: <https://www.planningportal.co.uk/applications>. Please note, The Planning Portal refers to it as 'Approval of details reserved by a condition'.

When the required information has been submitted you will receive a reference and an acknowledgement letter. Once the Local Planning Authority is satisfied that the requirements of the condition have been met you will receive a formal notification that the conditions have been discharged.

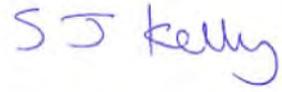
### **Appeals against conditions**

You should also be aware that the applicant has the right to appeal against any conditions attached to this Notice, please see <https://www.gov.uk/planning-inspectorate> for details. If you are concerned about any condition you should contact the case officer in the first instance for advice.

### **We value your feedback**

We value your feedback and would like to know your views about the planning process you experienced, including the service you received from us. Your views are important to us and they will help us improve the experience we can offer you. The link below takes you to a survey which will take a couple of minutes to complete.  
<https://forms.scams.gov.uk/PLANNINGFEEDBACKFORM/launch>

Yours faithfully

A handwritten signature in blue ink that reads "SJ Kelly". The letters are cursive and fluid.

SJ Kelly  
Joint Director For Planning & Economic Development For  
Cambridge & South Cambridgeshire





**SOUTH CAMBRIDGESHIRE  
DISTRICT COUNCIL**

Town & Country Planning Act 1990

**NOTICE OF APPROVAL OF RESERVED MATTERS  
SUBJECT TO CONDITIONS**

**Reference  
Date  
Decision**

S/4161/19/RM  
of 4 May 2020

John Brindley  
Cmyk  
Cmyk, 6 The Gavel Centre, Porters Wood, St Albans, AL3 6PQ

The Council hereby APPROVES RESERVED MATTERS for:

Reserved Matters for Strategic Landscaping for phase 1 following outline planning permission S/2903/14/OL. The Outline application was EIA development and an Environmental Statement was submitted.

at

West Cambourne Proposed Development Site Sheepfold Lane Cambourne Cambs

In accordance with your application received on 29 November 2019 and the plans, drawings and documents which form part of the application subject to the conditions set out below.

**Conditions**

- 1 The Strategic Landscape Elements hereby approved shall be commenced within 2 years of the date of this permission.

Reason: In accordance with s91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development, hereby approved, shall be carried out in accordance with the submitted plans which relates to Strategic Landscape Elements shown on:

RT\_656DB\_02E Ph 1 RMA Swansley Park Southern Entrance  
RT\_656DB\_03D Ph 1 RMA Swansley Park South and Meadow  
RT\_656DB\_04E Ph 1 RMA Swansley Park Greenway  
RT\_656DB\_05E Ph 1 RMA Wetlands  
RT\_656DB\_26D Sheepfold Central Spine  
RT\_656DB\_27D Ph 1 RMA Sheepfold Squares  
RT\_656DB\_28D Sheepfold Lane inc North Bund  
RT\_656DB\_62E PH1 RMA Planting Schedule

Reason: To define the permission and to ensure satisfactory development of the site in accordance with Policies of the South Cambridgeshire Local Plan 2018, and the aims and objectives of the National Planning Policy Framework as a whole.

- 3 This Reserved Matters Approval relates solely to the areas outlined in red as detailed on plan reference RT\_656DB\_01F Phase 1 RMA (Site Location Plan).

Reason: To define the permission and the extent of the Reserved Matters consideration.

- 4 No more than 50% of the ponds within the wetland area should be covered by macrophytes to allow sufficient natural light into the pond.

Reason: To ensure that the development enhances the biodiversity value of the site in accordance with policy NH/4

- 5 Before the preparation of above ground works for the development hereby approved, full details of play areas for Phase 1 of the development including grass seeding/turfing, planting, fencing, safety surfacing, play equipment, seats, litter bins and lighting, shall be submitted to and approved in writing by the Local Planning Authority. The scheme so approved shall be fully implemented in accordance with an implementation programme which will have been submitted to and approved in writing by the Local Planning Authority before occupation of the 50th dwelling. The approved play areas shall be so retained solely for the purposes of children's recreation.

REASON: In the interests of ensuring that sufficient amenity space is provided on the development site for the future occupiers of the dwellings having regard to Policy SC7 of the South Cambridgeshire Local Plan 2018, and paragraph 96 and 97 of the National Planning Policy Framework 2019.

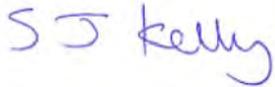
## Informatives

- 1 Notwithstanding the approved plans detailed in condition 2 of this approval, the technical specification relating to highway construction details do not form part of this permission as these relate to highway adoption requirements as this is a separate legislative process.
- 2 The Reserved Matters Submission, hereby approved, satisfies the requirements of the following conditions of the outline planning permission S/2903/14/OL (subject to the implementation of the agreed details) in relation to the land as defined by Condition 4 above:  
only subject to the implementation:
  - o Cond 5 - Reserved Matters - layout, scale, appearance,
  - o Cond 8 - Design code compliance
  - o Cond 16 - Tree protection
  - o Cond 22 - Walking and cycling provision

It is important the development is carried out fully in accordance with these plans. If you are an agent, please ensure that your client has a copy of them and that they are also passed to the contractor carrying out the development. A copy of the approved plan(s) is/are kept on the planning application file.

#### Authorisation

Authorised by:



SJ Kelly  
Joint Director For Planning & Economic Development For  
Cambridge & South Cambridgeshire

South Cambridgeshire Hall  
Cambourne Business Park  
Cambourne  
Cambridge  
CB23 6EA

Date the decision was made: 4 May 2020

## **Working with the applicant**

The LPA positively encourages pre-application discussions. Details of this advice service can be found at <https://www.greatercambridgeplanning.org>. If a proposed development requires revisions to make it acceptable the LPA will provide an opinion as to how this might be achieved. The LPA will work with the applicant to advise on what information is necessary for the submission of an application and what additional information might help to minimise the need for planning conditions. When an application is acceptable, but requires further details, conditions will be used to make a development acceptable. Joint Listed Building and Planning decisions will be issued together. Where applications are refused clear reasons for refusal will identify why a development is unacceptable and will help the applicant to determine whether and how the proposal might be revised to make it acceptable.

In relation to this application, it was considered and the process managed in accordance with paragraph 38 of the National Planning Policy Framework.

## **General Notes**

This decision notice does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than Section 57 of the Town and Country Planning Act 1990.

Your attention is specifically drawn to the requirements of the Equality Act 2010 and the Equality Act (Disability) regulations 2010, the British Standards Institution BS8300:2009 “Design of Buildings and their approaches to meet the needs of disabled people – Code of Practice” and to Approved Document ‘M’ “Access to and use of buildings”, volumes 1 and 2 of the Building Regulations 2010 and to Approved Document ‘B’ “Fire Safety”, volumes 1 and 2 of the Building Regulations 2010, in request of guidance on means of escape for disabled people. The development should comply with these requirements as applicable

It is an offence under Section 171 of the Highways Act 1980 to temporarily deposit building materials, rubbish or other things on the public highway or make a temporary excavation on it without the written consent of the Highway Authority. The Highway Authority may give its consent subject to such conditions as it thinks fit.

The applicant is reminded that under the Wildlife and Countryside Act 1981(Section 1) (as amended) it is an offence to take, damage or destroy the nest of any wild bird while that nest is in use or being built. Trees and scrub are likely to contain nesting birds between 1 March and 31 August. Trees within the application should be assumed to contain nesting birds between the above dates unless a survey has shown it is absolutely certain that nesting birds are not present.

## **Appeals to the Secretary of State**

- 2.1 The applicant has a right to appeal to the Secretary of State against any conditions of this approval, under Section 78 of the Town & Country Planning Act 1990. The appeal must be made on a form which may be obtained from:

The Planning Inspectorate,  
Temple Quay House, 2 The Square, Temple Quay, Bristol. BS1 6PN  
Telephone 0303 444 5000 or visit  
<https://www.gov.uk/planning-inspectorate>

- 2.2 If an enforcement notice is or has been served relating to the same or substantially the same land and development as in your application and if you want to appeal against your

local planning authority's decision on your application, then you must do so within: **28 days** of the date of service of the enforcement notice, **OR** within **6 months** of the date of this notice, whichever period expires earlier.

- 2.3 The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- 2.4 The Secretary of State need not consider an appeal if it seems to him that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

In practice, the Secretary of State does not refuse to consider appeals solely because the Local Planning Authority based their decision on a direction given by him.

## **Purchase Notices**

If the Local Planning Authority or the Secretary of State grants permission subject to conditions the owner may claim that he/she can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted. In these circumstances the owner may serve a purchase notice on the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

## **Before starting work**

It is important that all conditions, particularly pre-commencement conditions, are fully complied with, and where appropriate, discharged prior to the implementation of the development. Failure to discharge such conditions may invalidate the planning permission granted. The development must be carried out fully in accordance with the requirements of any details approved by condition.

## **Street Naming and Numbering**

In order to obtain an official postal address, any new buildings should be formally registered with South Cambridgeshire District Council. Unregistered addresses cannot be passed to Royal Mail for allocation of postcodes.

Applicants can find additional information, a scale of charges and an application form at [www.scambs.gov.uk/snn](http://www.scambs.gov.uk/snn). Alternatively, applicants can contact the Address Management Team: call 08450 450 500 or email [address.management@scambs.gov.uk](mailto:address.management@scambs.gov.uk).

Please note new addresses cannot be assigned by the Council until the footings of any new buildings are in place.

## **Third Party Rights to challenge a planning decision**

Currently there are no third party rights of appeal through the planning system against a decision of a Local Planning Authority. Therefore, if you have concerns about a planning application and permission is granted, you cannot appeal that decision.

Any challenge under current legislation would have to be made outside the planning system through a process called Judicial Review.

A 'claim for judicial review' includes a claim to review the lawfulness of a decision, action or failure to act in relation to the exercise of a public function, in this case, a planning decision. The court's permission to proceed is required in a claim for Judicial Review. A claim for Judicial Review is dealt with by the Administrative Court and if leave to judicially review a planning decision is granted, the Judicial Review will be decided by a judge at the High Court.

An application to Judicial Review a decision must be made within **6 weeks** of the decision about which you have a grievance being made. For further information on judicial review and the contact details for the Administrative Courts, please go to <http://www.justice.gov.uk/>

**Memorandum of Agreement for the processing of Public Path Orders between Cambridgeshire County Council and South Cambridgeshire District Council.**

This Memorandum outlines agreement reached between Cambridgeshire County Council [The County Council] and South Cambridgeshire District Council [The District Council] concerning the processing of Public Path Orders under the Town & Country Planning Act 1990 in Cambridgeshire.

In this Memorandum 'Public Path Orders' refers to all orders that effectively divert, create or extinguish a public right of way.

**Legislative Framework**

The Highways Act 1980 and the Town and Country Planning Act 1990 enable both District and County Councils to undertake and process Public Path Orders. Orders made under the Highways Act 1980 can be made by either authority. Orders made under the Town and Country Planning Act 1990 can only be made by the appropriate planning authority. However, the planning authority may contract out the processing of such orders to suitably qualified contractors. The County Council has a statutory duty under the Wildlife and Countryside Act 1981 to modify the Definitive Map in order to show any changes to the route of a path effected by a public path order under either Act. The two authorities already have an Agreement regarding public path orders made under the Highways Act 1980 whereby the County Council undertakes to assess and make all orders requested under that Act through to confirmation if the applications meet the legal tests.

**Public Path Orders under the Town and Country Planning Act 1990**

The County Council will make all orders under the Town and Country Planning Act 1990 where they are the Planning Authority. The District Council will be consulted on these orders due to their status as a statutory consultee.

The County Council will receive applications from the public for public path orders which are required under the Town and Country Planning Act 1990 on behalf of the District Council. The County Council will process the order according to the procedure set out in the Appendix. The County Council will recover its costs from the applicant direct. No charges shall be made by the County Council to the District Council or by the District Council to the County Council for any aspect of making or confirming the order.

Signed on behalf of Cambridgeshire County Council by:-

Name..... *C. H. Kemp* .....  
Job Title..... *DIRECTOR OF HIGHWAYS + ACCESS* .....  
Date..... *26<sup>th</sup> JAN 2007* .....

Signed on behalf of South Cambridgeshire District Council by:-

Name..... *DAVID LORD* .....  
Job Title..... *ASST. SOLICITOR* .....  
Date..... *20<sup>th</sup> February 2007* ..... *D. Lord*

## Memorandum of Agreement –Cambridgeshire County Council and South Cambridgeshire District Council - Public Path Orders

### Appendix – Procedure for public path orders under the Town and Country Planning Act 1990 where Cambridgeshire County Council acts as agent for South Cambridgeshire District Council

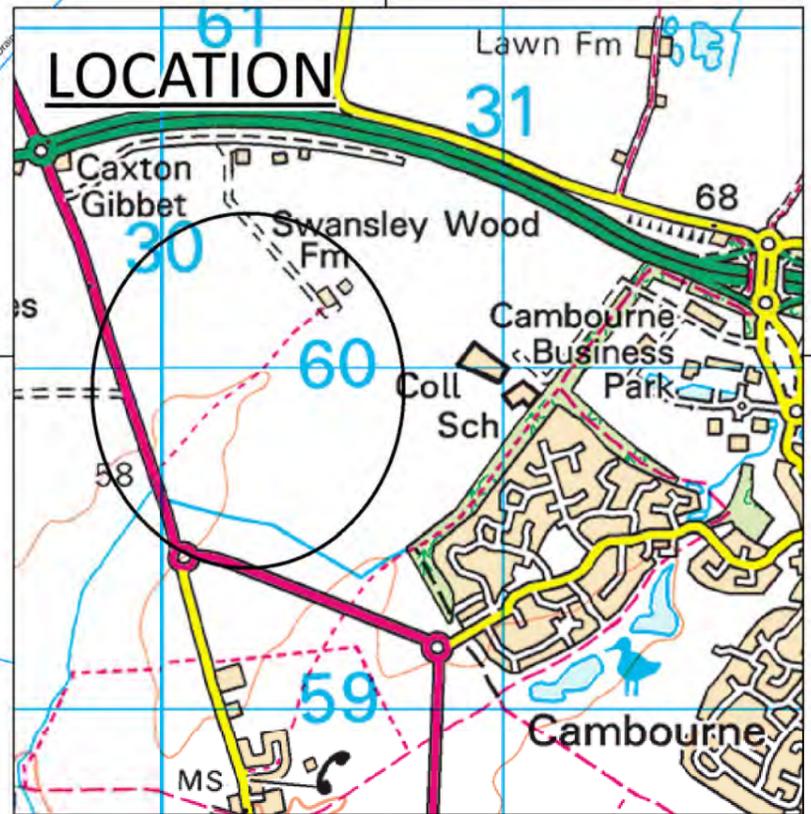
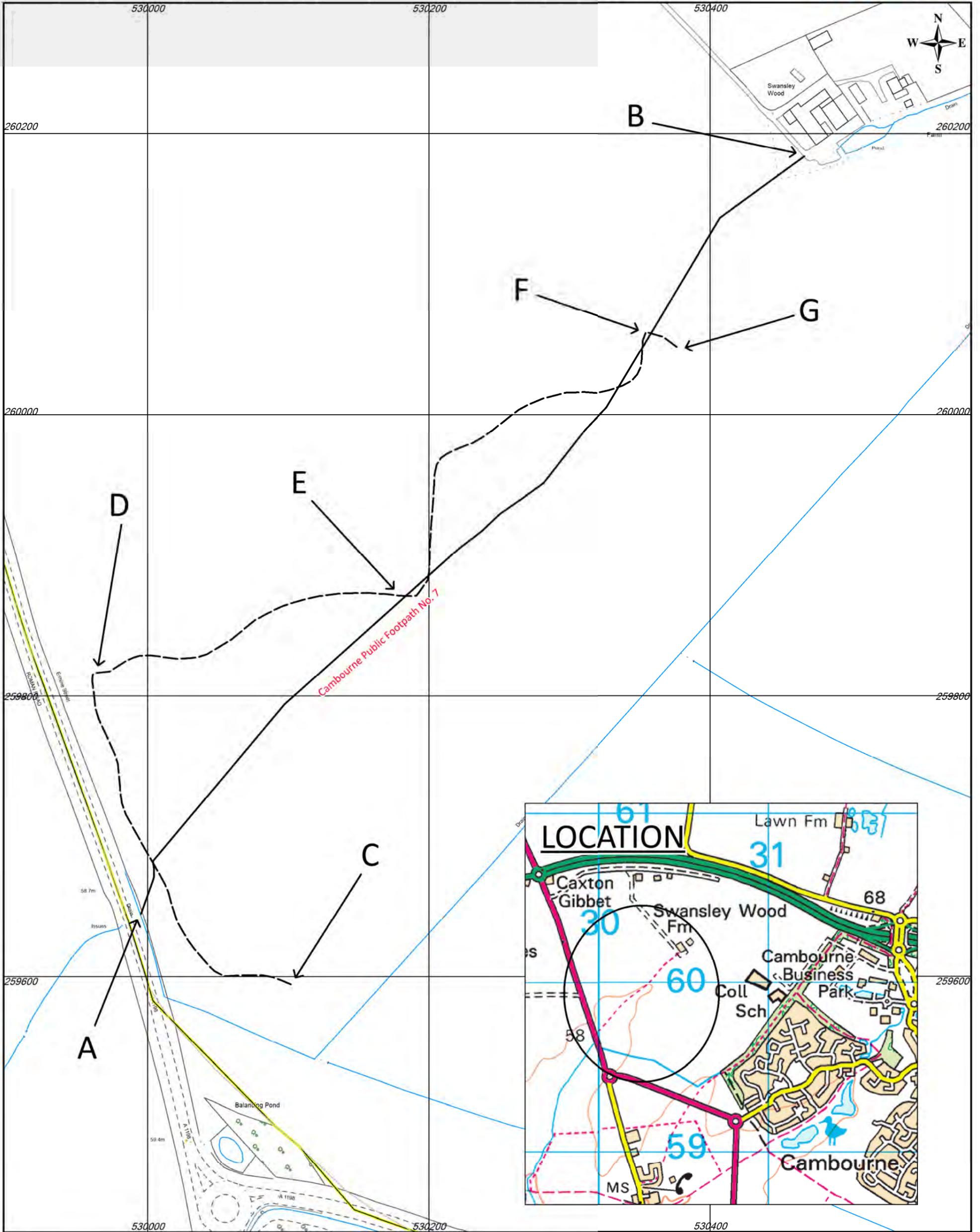
- Application made direct to Cambridgeshire County Council
- Cambridgeshire County Council formally notifies South Cambridgeshire District Council of application and timescale for processing application
- South Cambridgeshire District Council arranges slot on relevant committee agenda for consideration of report
- Cambridgeshire County Council carries out formal consultations on the proposed diversion, writes report and prepares a draft order and order map
- South Cambridgeshire District Council Planning Committee considers the report and determines whether the order should or should not be made
- South Cambridgeshire District Council seals the draft order and order map if order is to be made
- Cambridgeshire County Council processes the publication of the order
- If no objections, South Cambridgeshire District Council confirms the order and Cambridgeshire County Council processes the publication of the confirmation
- If objections, South Cambridgeshire District Council and Cambridgeshire County Council jointly agree whether or not to submit order to Planning Inspectorate (Secretary of State) for determination

#### Costs

Cambridgeshire County Council will recoup the costs of making the order direct from the applicant.

The local authority is not permitted to recharge to the applicant the costs of sending an opposed order to the Planning Inspectorate. Therefore, if South Cambridgeshire District Council wishes to submit an order to the Planning Inspectorate, it will meet the Cambridgeshire County Council's costs in doing so or submit the order itself and meet its own costs.

The risk of having to meet these costs should mean that South Cambridgeshire District Council only resolves to make orders where it was reasonably confident that the order would not attract objections. The onus lies with the applicant to provide a diverted route that is acceptable to all parties (including reviewing the proposed diverted route if, after consultations, their original suggestion is not acceptable).



Scale: 1:2500 (A3)

Date: 31/07/2020

By: fn303

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Key - Drawn from the Definitive Map	
Public Footpath to be Stopped Up	
New Route of Public Footpath	
Parish boundary	

**From:** [Stringer James](#)  
**To:** [REDACTED]  
**Subject:** RE: Application to divert Cambourne Public Footpath No. 7  
**Date:** 28 August 2020 15:59:44  
**Attachments:** [Pages from S\\_2709\\_18\\_DC-Approved\\_Design\\_Code-4271645.pdf](#)  
[image004.png](#)

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Hi Lynda,

Attached is an extract from the Approved Site Wide Design Code. The circular bridleway is a committed element of that design code and is shown by the brown line around the edge of the development. The existing and proposed PROW, which are subject to this application, are also shown. However the alignments are slightly out but it gives you a general idea of where they are in reference to the wider development.

The full Site Wide Design Code can be found on SCDC planning website:

<https://applications.greatercambridgeplanning.org/online-applications/applicationDetails.do?activeTab=summary&keyVal=ZZZY1KOITV317>

Kind Regards,

James Stringer

**Asset Information Definitive Map Officer**

Asset Information, Box No. STA2101, Cambridgeshire County Council, Stanton Way Depot, Huntingdon, PE29 6PY

Direct Dial: 01223 715520 / Contact Centre: 0345 045 5212



Highways Service – Asset Information Definitive Map Team: Data Protection Privacy Notice

We collect and use information about you - such as your name, address, email address, telephone number, and payment details - so that we can provide you with our services acting in our capacity as the Highway Authority and Commons Registration Authority under the Commons Registration Act 1965, Highways Act 1980, Wildlife & Countryside Act 1981, Town & Country Planning Act 1990, Freedom of Information Act 2000, Environmental Information Regulations 2004 and the Commons Act 2006.

Full details about how we use this data and the rights you have around this can be found in our privacy notice at [www.cambridgeshire.gov.uk/privacy](http://www.cambridgeshire.gov.uk/privacy). If you have any queries, please contact the Data Protection Officer at [data.protection@cambridgeshire.gov.uk](mailto:data.protection@cambridgeshire.gov.uk). The national regulator for Data Protection is the Information Commissioner's Office: <https://ico.org.uk/>

---

**From:** Lynda Warth [REDACTED]  
**Sent:** 28 August 2020 15:24  
**To:** Stringer James <[James.Stringer@cambridgeshire.gov.uk](mailto:James.Stringer@cambridgeshire.gov.uk)>  
**Subject:** RE: Application to divert Cambourne Public Footpath No. 7

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Hi James

I am struggling to work out exactly where this path is proposed to be on the new development. Is it part of the new bridleway network? At 4m wide I am assuming it is although that's not mentioned in the application.

Do you have a plan of the proposed RoW network for the development showing this path?

Regards,

Lynda

---

**From:** Stringer James <[James.Stringer@cambridgeshire.gov.uk](mailto:James.Stringer@cambridgeshire.gov.uk)>

**Sent:** 28 August 2020 11:49

**Subject:** Application to divert Cambourne Public Footpath No. 7

Dear Consultee,

Cambridgeshire County Council, acting as agents for South Cambridgeshire District Council, has received an application under Section 257 of the Town and Country Planning Act 1990 to divert Public Footpath No. 7 in the parish of Cambourne.

Please see the attached letter and plan for further details.

I would be grateful if I could receive any representation you wish to make by **18<sup>th</sup> September 2020**.

Kind Regards,

James Stringer

**Asset Information Definitive Map Officer**

Asset Information, Box No. STA2101, Cambridgeshire County Council, Stanton Way Depot, Huntingdon, PE29 6PY

Direct Dial: 01223 715520 / Contact Centre: 0345 045 5212



Highways Service – Asset Information Definitive Map Team: Data Protection Privacy Notice

We collect and use information about you - such as your name, address, email address, telephone number, and payment details - so that we can provide you with our services acting in our capacity as the Highway Authority and Commons Registration Authority under the Commons Registration Act 1965, Highways Act 1980, Wildlife & Countryside Act 1981, Town & Country Planning Act 1990, Freedom of Information Act 2000, Environmental Information Regulations 2004 and the Commons Act 2006.

Full details about how we use this data and the rights you have around this can be found in our privacy notice at [www.cambridgeshire.gov.uk/privacy](http://www.cambridgeshire.gov.uk/privacy). If you have any queries, please contact the Data Protection Officer at

**From:** digdatSupport  
**To:** [Stringer James](#)  
**Subject:** RE: Application to divert Cambourne Public Footpath No. 7  
**Date:** 01 September 2020 10:41:25

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Good morning,

Many thanks for your email.

Having checked the maps I can confirm that Anglian Water has no record of any of its wayleaves, easements or assets that would be affected by your proposals and therefore would have no objections to your proposals.

If in the meantime I can be of any further assistance please do not hesitate to contact me.

Kind Regards

Robert Chapman  
digdat Support Team



[www.digdat.co.uk](http://www.digdat.co.uk)

---

**From:** Stringer James <James.Stringer@cambridgeshire.gov.uk>  
**Sent:** 28 August 2020 11:57  
**Subject:** Application to divert Cambourne Public Footpath No. 7

Dear Consultee,

Cambridgeshire County Council, acting as agents for South Cambridgeshire District Council, has received an application under Section 257 of the Town and Country Planning Act 1990 to divert Public Footpath No. 7 in the parish of Cambourne.

Please see the attached letter and plan for further details.

I would be grateful if I could receive any representation you wish to make by **18<sup>th</sup> September 2020**.

Kind Regards,

James Stringer

**Asset Information Definitive Map Officer**

Asset Information, Box No. STA2101, Cambridgeshire County Council, Stanton Way Depot,  
Huntingdon, PE29 6PY

Direct Dial: 01223 715520 / Contact Centre: 0345 045 5212



Cambridgeshire County Council  
Stanton Way Depot  
Huntingdon  
PE29 6PY

Virgin Media  
Field Services  
Units 1-12  
Broad Lane  
Mayfair Business Park  
Bradford  
Yorkshire  
BD4 8PW

Tel: 0870 888 3116 Opt 2  
Fax: 01268 468557

Plant Enquiry Ref: VM.1171011  
Your Letter Date: 28.08.2020  
Your Ref: NA  
Date: 01.09.2020

Dear Sir /Madam

Enquiry Location: Cambourne Publice footpath No.7

Thank you for your enquiry regarding work at the above location.

Virgin Media and Viatel plant should not be affected by your proposed work and no strategic additions to our existing network are envisaged in the immediate future.

Should your request be in relation to a Residential New Development, Virgin Media would like the opportunity to assist with your diversionary quote and serve your site free of charge, offering your customers the fastest widely available broadband speeds on the market up to 500Mbps.

For Commercial New Developments our team can also be reached through the below link, ensuring future businesses to your site are connected to our fibre network.

Simply head over to [www.virginmedia.com/developer](http://www.virginmedia.com/developer) and fill in the enquiry form and a member of our New Developments team will be in touch within 48 hours.

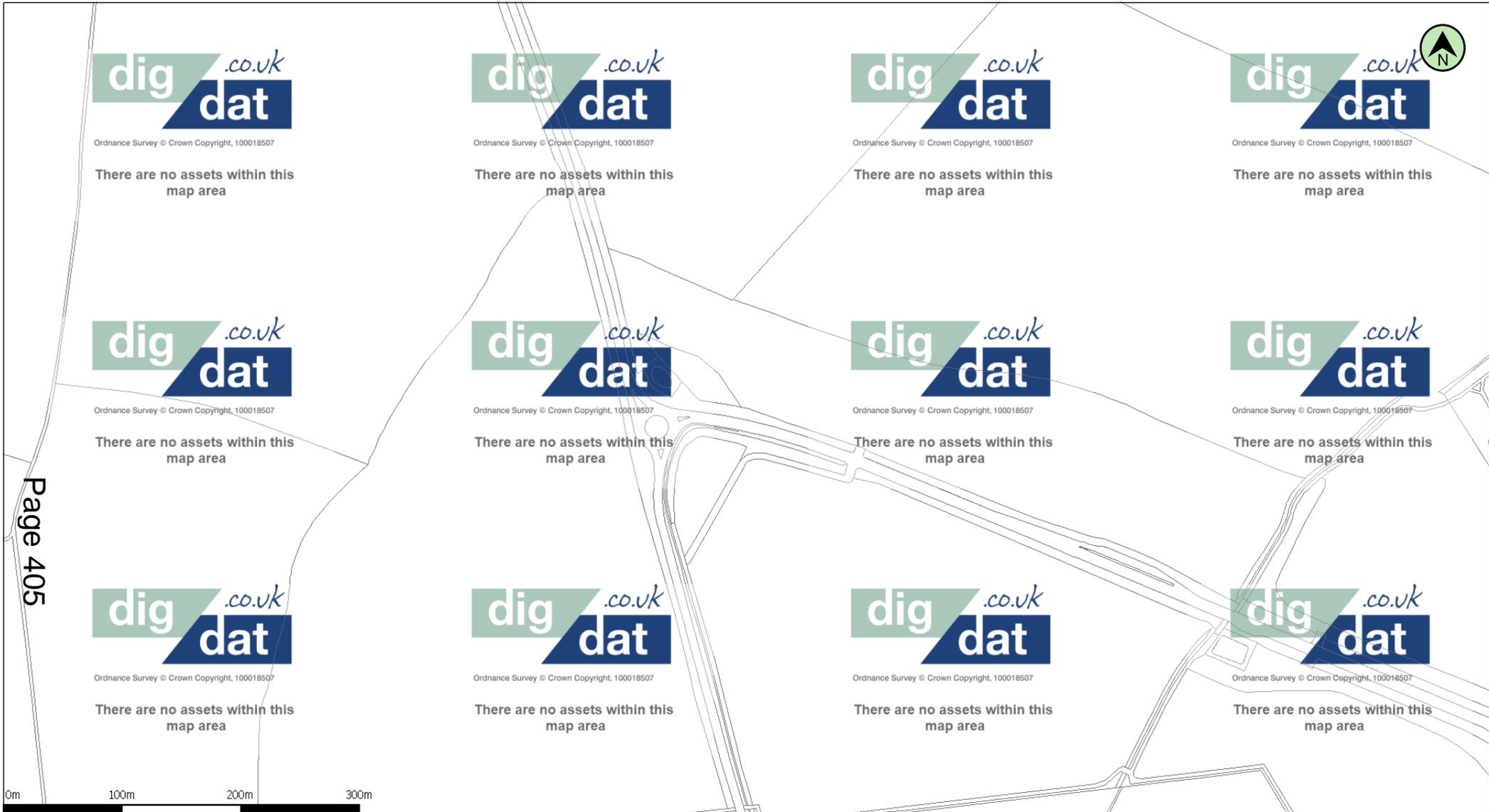
You will also find useful information about additional benefits to you and your site, plus a handy 'developers guide' can be downloaded with detailed installation requirements.

Or if you prefer to talk, please call the New Developments team on: 0800 408 0088 Option 2

Yours faithfully,

National Plant Enquiries Team  
Email: [plant.enquiries.team@virginmedia.co.uk](mailto:plant.enquiries.team@virginmedia.co.uk)

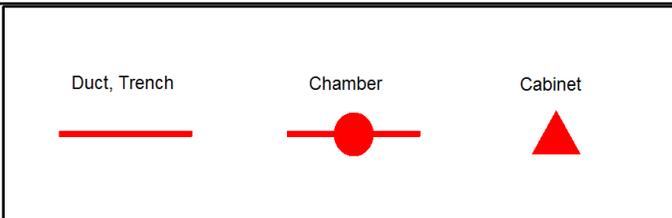
**Please note: National Plant Enquiries Team (Bradford) cover and respond to plant enquiries for all ex ntl: Telewest franchise areas.**



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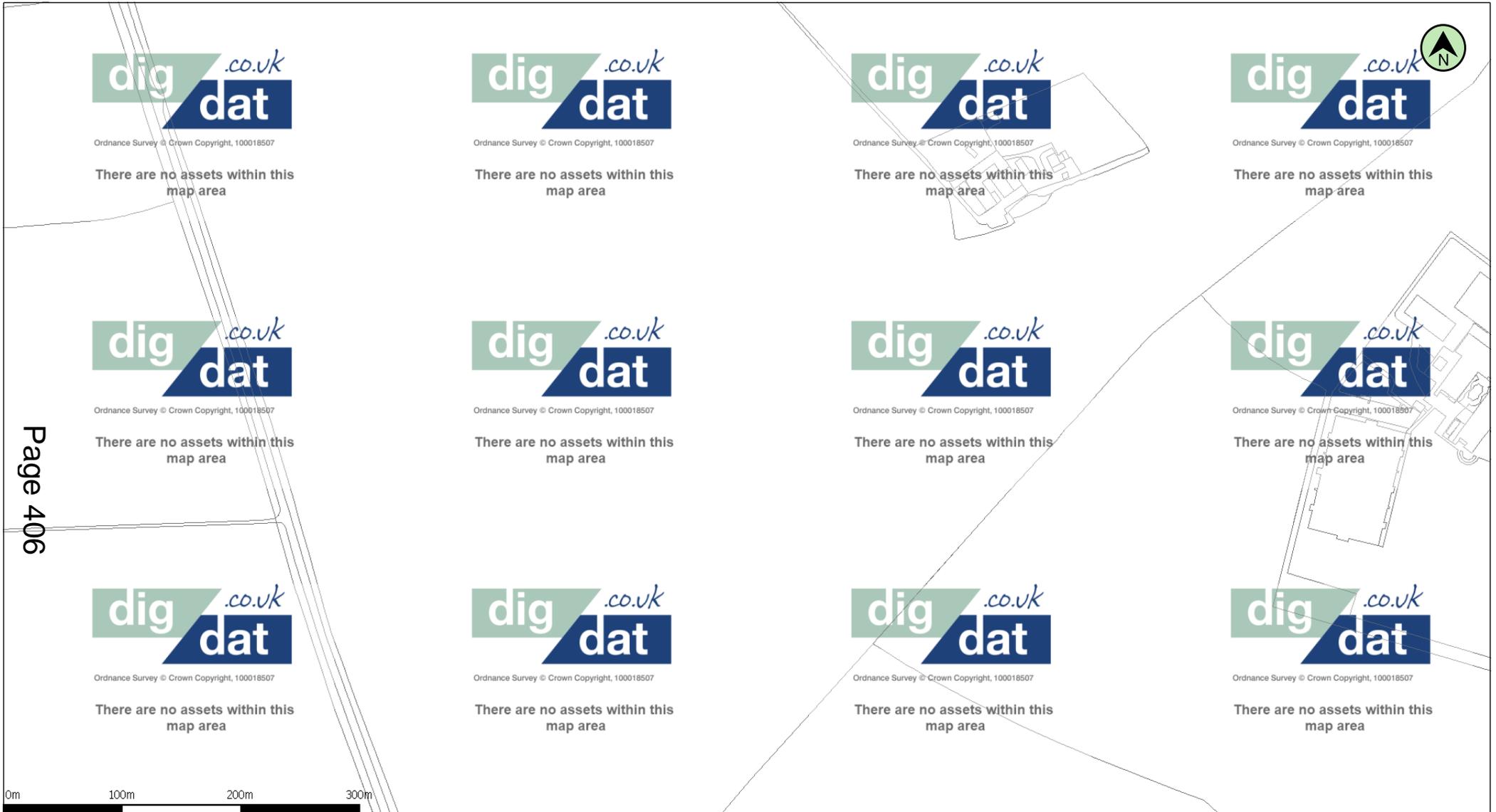
(c) Crown copyright and database rights 2020 Ordnance Survey 100019209      Date: 01/09/20      Scale: 1:4523      Map Centre: 530131,259451      Data updated: 03/08/20      Telecoms Plan A4

Important Information - please read The purpose of this plan is to identify Virgin Media apparatus. We have tried to make it as accurate as possible but we cannot warrant its accuracy. In addition, we caution that within Virgin Media apparatus there may be instances where mains voltage power cables have been placed inside green, rather than black ducting. Further details can be found using the "Affected Postcodes.pdf", which can be downloaded from this website. Therefore, you must not rely solely on this plan if you are carrying out any excavation or other works in the vicinity of Virgin Media apparatus. The actual position of any underground service must be verified by cable detection equipment, etc. and established on site before any mechanical plant is used. Accordingly, unless it is due to the negligence of Virgin Media, its employees or agents, Virgin Media will not have any liability for any omissions or inaccuracies in the plan or for any loss or damage caused or arising from the use of and/or any reliance on this plan. This plan is produced by Virgin Media Limited (c) Crown copyright and database rights 2020 Ordnance Survey 100019209.



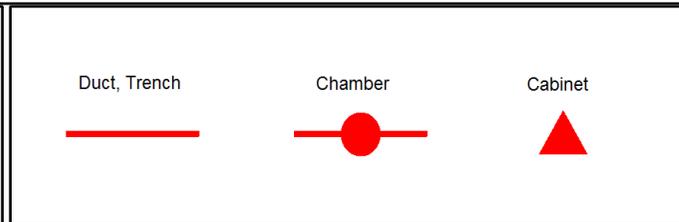
stephy.jaison@virginmedia.co.uk
VM.1171011



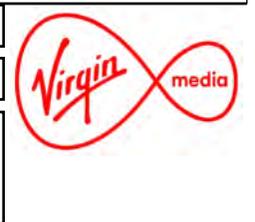


Page 406

Important Information - please read The purpose of this plan is to identify Virgin Media apparatus. We have tried to make it as accurate as possible but we cannot warrant its accuracy. In addition, we caution that within Virgin Media apparatus there may be instances where mains voltage power cables have been placed inside green, rather than black ducting. Further details can be found using the "Affected Postcodes.pdf", which can be downloaded from this website. Therefore, you must not rely solely on this plan if you are carrying out any excavation or other works in the vicinity of Virgin Media apparatus. The actual position of any underground service must be verified by cable detection equipment, etc. and established on site before any mechanical plant is used. Accordingly, unless it is due to the negligence of Virgin Media, its employees or agents, Virgin Media will not have any liability for any omissions or inaccuracies in the plan or for any loss or damage caused or arising from the use of and/or any reliance on this plan. This plan is produced by Virgin Media Limited (c) Crown copyright and database rights 2020 Ordnance Survey 100019209.



stephy.jaison@virginmedia.co.uk
VM.1171011



**From:** [REDACTED]@openreach.co.uk  
**To:** [Stringer James](mailto:James.Stringer@openreach.co.uk)  
**Subject:** RE: Application to divert Cambourne Public Footpath No. 7  
**Date:** 02 September 2020 08:20:46

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Good Morning James,

Thank you for your enquiry, this has now been registered on our systems with a reference of ACTS 841376

A local Repayments engineer will contact you within 20 working days regarding your scheme.

If you have not heard from a repayments engineer after 20 working days please do not hesitate to contact us again at [Networkalterationsuk@openreach.co.uk](mailto:Networkalterationsuk@openreach.co.uk) Please quote the reference we have supplied and we will escalate to the appropriate office.

Kind Regards,

### **The Network Alterations Team**

Openreach is delivering fibre broadband services to communities across the UK as well as installing and maintaining the communications infrastructure that links homes, businesses, public and voluntary sector organisations to their Communications Providers' networks.

Think before you print! Consider the environment before printing this e-mail.

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We monitor our email system, and may record your emails.

**British Telecommunications plc**

Registered office: 81 Newgate Street London EC1A 7AJ Registered in England no. 1800000

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**From:** Stringer James [mailto:James.Stringer@cambridgeshire.gov.uk]

**Sent:** 28 August 2020 11:57

**Subject:** Application to divert Cambourne Public Footpath No. 7

Dear Consultee,

Cambridgeshire County Council, acting as agents for South Cambridgeshire District Council, has received an application under Section 257 of the Town and Country Planning Act 1990 to divert Public Footpath No. 7 in the parish of Cambourne.

Please see the attached letter and plan for further details.

I would be grateful if I could receive any representation you wish to make by **18<sup>th</sup> September 2020**.

Kind Regards,

James Stringer

**Asset Information Definitive Map Officer**

Asset Information, Box No. STA2101, Cambridgeshire County Council, Stanton Way Depot,  
Huntingdon, PE29 6PY

Direct Dial: 01223 715520 / Contact Centre: 0345 045 5212



Highways Service – Asset Information Definitive Map Team: Data Protection Privacy Notice

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**From:** Roger Moreton  
**To:** [Stringer James](#)  
**Cc:** [REDACTED]  
**Subject:** Re: Application to divert Cambourne Footpath 7  
**Date:** 23 September 2020 15:57:00  
**Attachments:** [image003.png](#)

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Dear James,

Proposed diversion of Cambourne footpath 7

Many thanks for your helpful response, which I will circulate to our Committee. I feel that you have answered most of our queries.

If there are any further comments, I will pass them on to you in due course.

Thank you again for your consultation.

Kind regards,

Janet Moreton

R.B. & J Moreton  
Joint Footpath Secs for South Cambs District,  
Ramblers' Cambridge Group

---

**From:** Stringer James <James.Stringer@cambridgeshire.gov.uk>  
**Sent:** 23 September 2020 15:16  
**To:** 'Roger Moreton' [REDACTED]  
**Subject:** RE: Application to divert Cambourne Footpath 7

Dear Janet,

Thank you for your response.

In short, yes your interpretation of the proposed diversion is correct. The diverted path would commence at a new roundabout being constructed on the A1198 to serve the Cambourne West development. The path would when run around the new Swansley Lake and into a landscaping

area known as “The Wetlands”. The path would terminate at an adopted shared use pedestrian and cycle path which itself connects the main link estate road with “The wetlands” and continues to the “Sheepfold” area of the development in the north. It is not proposed that the public footpath would terminate at a permissive path, or that users would need to use permissive access to get to existing facilities in Cambourne. It is also proposed that a perimeter public bridleway will be dedicated at a later stage of development around the entire perimeter of the Cambourne West site linking to the existing perimeter bridleway around Lower and Greater Cambourne.

With regard to the surfacing, it has been proposed by the applicant to install a 1.8m wide compacted gravel path, similar to what you would expect at a Country Park or Nature Reserve. The wider landscaping of the area is subject to planning permission granted by South Cambridgeshire District Council.

If you have any further representation you would like to add, I would be grateful to receive it as soon as reasonable.

Kind Regards,

James Stringer

**Asset Information Definitive Map Officer**

Asset Information, Box No. STA2101, Cambridgeshire County Council, Stanton Way Depot, Huntingdon, PE29 6PY

Direct Dial: 01223 715520 / Contact Centre: 0345 045 5212



Highways Service – Asset Information Definitive Map Team: Data Protection Privacy Notice

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Full details about how we use this data and the rights you have around this can be found in our privacy notice at [www.cambridgeshire.gov.uk/privacy](http://www.cambridgeshire.gov.uk/privacy). If you have any queries, please contact the Data Protection Officer at [data.protection@cambridgeshire.gov.uk](mailto:data.protection@cambridgeshire.gov.uk). The national regulator for Data Protection is the Information Commissioner's Office: <https://ico.org.uk/>

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**From:** Roger Moreton [REDACTED]  
**Sent:** 11 September 2020 22:03  
**To:** Stringer James <[James.Stringer@cambridgeshire.gov.uk](mailto:James.Stringer@cambridgeshire.gov.uk)>  
**Subject:** Application to divert Cambourne Footpath 7

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Dear Mr Stringer,

This is in reply to your e-mail of 28 August 2020, relating to the application received by Cambridgeshire County Council, to divert Cambourne footpath 7 onto a route illustrated on an attached plan. We understand that the diversion is proposed under TCP Act 1990 s. 257, to allow the Cambourne West development.

First, I must apologise for the delay in replying. Our Committee does not actually meet in these difficult times, and consultations are by e-mail. Also in this particular case, it was difficult to relate the diversion map to the enclosed general plan proposed for West Cambourne. Fortunately, a member of our Committee who keeps a watching brief on South Cambridge's planning matters was able to find a clearer map in his computer archives. I have to say that because of the obscurity of the present route of Cambourne 7 in one huge arable field, a majority of our Committee were not familiar with the path on the ground. It was felt that a site visit at this stage would not serve any useful purpose.

There is a general approval for the diversion of the path in principle, so that in future it could offer a pleasant and useful recreational route to the residents of Cambourne, and to walkers in general. Our planning expert has tried to work out exactly where the proposed path goes: I quote (with my parentheses)

"I think the proposed path runs around the pond (Point C) by the main road (Ermine St), northwards, then cuts just south of the proposed Woodfields Primary School, and wiggles back and forth a bit before dumping pedestrians in or near some woodland called The Wetlands, on the edge of Swansley Park. The farm itself will presumably be reachable only from the farm drive from the A428."

It would be helpful to have your assurance that our interpretation of the map is correct. Do you have any information on the proposed surfacing of the route, and landscaping?

Another member of the Committee is especially concerned that the proposed new route should be part of a useful circuit, running back towards the centre of (Great) Cambourne, and entirely available along public rights of way (with no permissive links). The outline planning information we have seen suggests much of the development is of course housing. Have you any comments on the access through and between parts of the estate?

We would be very glad to have answers to these queries. Were this your "formal" consultation, I would say we are registering a holding objection. However, hopefully further information will resolve perceived difficulties.

Yours sincerely

Janet Moreton

R.B. & J.Moreton  
Joint Footpath Secretaries  
South Cambridgeshire District  
for Ramblers' Association, Cambridge Group

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**Non-Motorised User Routes Adoption Criteria -  
Public Path Order Applications and Proactive Cases under the Highways Act 1980 (except s118A and 119A), the Town and County Planning Act 1990, and other Acts as appropriate**

Subject area	Criteria	Maximum available score	Scheme	Notes	
	<b>No.</b>	<b>Item (SOA = Statement of Action in ROWIP)</b>			
Consultations	1	Pre-application consultations have been carried out with the prescribed bodies.	Pass or Fail	Pass	TBC
Consultations	2	The existing route is available for use and any 'temporary' obstructions have been removed, in order to allow a comparison to be made. Any request for exemption will be decided by the Director Highways & Access as to whether or not that is appropriate.	Pass or Fail	Pass	The existing path was available on the ground until the beginning of 2020. The path is currently subject to a Temporary Traffic Regulation Order (TTRO) until August 2020.
Consultations	3	No objections are received to the proposals during the statutory consultation period prior to making an order. However, the County Council will review this criterion in individual cases in light of objections and potential public benefit of the proposal. If the County Council consider the objection to be irrelevant, this will class as a pass.	Pass or Fail	Pass	TBC
Width	4	A minimum width of 2m is provided for a diverted footpath, and a minimum width of 4m for a diverted bridleway. In exceptional cases, e.g. cross-field paths, the County Council may, taking into account all the available facts, require such a width as it considers reasonable and appropriate.	Pass or Fail	Pass	The minimum widths will be met in this case
Maintenance & Financial	5	If maintenance liability is significantly greater than existing, the landowner has agreed to undertake or fund future maintenance.	Pass or Fail	Pass	The additional structures proposed on this path are to be retained by the landowner and will not become publically maintainable.
Equalities impact - Gaps & Gates	6	The proposed route would have no stiles or gates, or allows for access for people with mobility issues.	Pass or Fail	Pass	Whilst gates are proposed, these are design to be in a chicane arrangement so to avoid them having to be opened on each occasion.
Equalities impact	7	Significant negative impact on a class of user - Equalities Act	-2	0	N/A
Equalities impact	8	Significant increase in accessibility - Equalities Act	2	1	The existing path is a cross field path which is subject to annual ploughing and cropping. As a result of the land use change and this diversion, the path will follow a level, constructed path which will be fully accessible.
Maintenance & Financial	9	Proposal would enable financial savings for Authority, e.g. obviates need for new bridge, resolves long-standing maintenance problems	4	0	N/A
Maintenance & Financial	10	The proposed alternative route or routes are not less convenient for maintenance than the original route(s).	2	2	The proposed route is more accessible owing to the new development and will be constructed to a suitable standard to mitigate the liabilities placed upon the Highway Authority.
Use of Land	11	The effect the order would have on the land served by the existing path and the land across which the alternative path would run, or on the land across which the new path will run if a	2	2	The site is subject to approved planning permission and it is therefore clearly the Order in necessary to implement that approved permission.
Connectivity	12	The proposed alternative route or routes are substantially as convenient to the public as the original.	3	3	The additional length of path is considered to be substantially as convenient to the public. The improved surface, land use change from cross-field path to unbound hoggin and clear unobstructed width are all considered to be more convenient to the public.
Connectivity	13	User enjoyment	3	2	The changing landscape is likely to have an impact on user enjoyment, however this is relevant to the permission of the development not the sole change to the PRoW network. The design and location of the proposed path within landscaping areas is likely to have a positive impact on user enjoyment.
Connectivity	14	There are no other reasonable or viable alternatives	2	2	It is not considered that there is any other reasonable or viable alternative that would satisfied the various demands of a Public Path Creation.
Connectivity & Enjoyment	15	A suitable alternative path is provided or is available for every path that is to be diverted or entirely stopped up, which maintains or improves the usefulness of the Rights of Way network	2	2	This criteria is considered to have been met.
Consultation	16	Support from local communities	3	2	The proposal did not receive any objection during pre-order consultation
Biodiversity Duty	17	Significant negative impact on biodiversity	-2	0	N/A
Promoted route	18	Route will be on a promoted way eg. National Cycle Network, Ouse Valley Way	1	0	N/A
Consolidation of data	19	Proposal would enable consolidation of records to provide accurate asset data and facilitate enhanced service delivery e.g. connectivity with other highways	1	1	The existing path terminate at a dead-end with no onward connection. The wider development and this diversion will allow for the path to terminate and a (to be) adopted street. It also allows for a more descriptive definitive statement to be recorded with a legally recorded width which will assist with future service delivery.
Determination of widths	20	Proposal will enable the definition and recording of path widths, particularly where there is currently no recorded width	3	2	The existing path does not have a recorded width on the Definitive Statement, this process would allow one to be recorded.
Limited time	21	Limited window of opportunity E.g. landowner goodwill or S106 Agreement	3	3	This proposal is associated with, and is necessary because of the approval of planning permission for the Cambourne West development.
Route at risk of development on urban fringe	22	Route is on fringe of a built-up area and therefore at risk from development, e.g. Being used as an access way.	3	1	Whilst the proposed path is set out within the approved planning permission, the opportunity to have it recorded on the Definitive Map and Statement is now and such opportunity may not be available in the future.
		<b>Total Score /30 (Pass mark 70% i.e. 21)</b>	<b>30</b>	<b>23</b>	

**Scoring notes:** A scheme must reach the threshold of 70% of maximum score in order to be adopted. However, schemes will still have to undergo their relevant legal process e.g. Public Path Orders through the formal consultation process, and may later be abandoned in accordance with the Council's Public Path Order Policy.

There are six Pass/Fail criteria relating to County Council requirements that must be met in order for an application to be considered. If an application fails one of these criteria, it fails regardless of its numerical score. Officers will then revert to the applicant to discuss their options.

For the numerically scored criteria, a 70% threshold must be met in order for an application to be taken forward. If an application passes the Pass/Fail criteria but fails the 70% numerical threshold, it will not proceed and officers will revert to the applicant to discuss their options.

If the maintenance liability incurred would be significantly greater than the existing, an application may still pass if a solution is agreed, such as a commuted sum or an agreement for a third party to maintain the route instead.

**HIGHWAYS  
MEMORANDUM**

To : James Stringer  
Asset Information Definitive Map Officer

From : Richard Lumley  
Assistant Director, Highways

Date : 17/03/21

Reference : P103

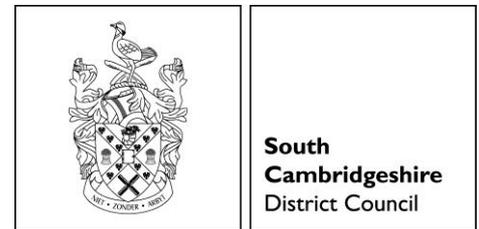
**SUBJECT** : Report on the proposed diversion of Cambourne Public Footpath No. 7

With reference to your report of 16<sup>th</sup> March, I agree with your recommendation that the proposed diversion of Public Footpath No. 7 Cambourne is acceptable to Cambridgeshire County Council as Local Highway Authority.

This approval should be reported to South Cambridgeshire District Council as Local Planning Authority to allow them to make a formal decision on whether or not to make a diversion order under Section 257 of the Town and County Planning Act 1990.



Richard Lumley  
Assistant Director, Highways



**REPORT TO:** Planning Committee

13 April 2021

**LEAD OFFICER:** Joint Director of Planning and Economic Development

---

## Enforcement Report

### Executive Summary

1. On 29<sup>th</sup> March 2021 there were 248 open cases.
2. Details of all enforcement investigations are sent electronically to members on a weekly basis identifying opened and closed cases in their respective areas along with case reference numbers, location, case officer and nature of problem reported.
3. Statistical data is contained in Appendices 1 and 2 to this report.

### Updates to significant cases

Updates are as follows:

#### **Croudace Homes Ltd Site, Land off Horseheath Road, Linton.**

The developer has failed to discharge the surface water drainage condition prior to commencement of the development and the latest application to discharge the condition has been refused. A Temporary Stop Notice was served on the site on 24/02/21 and all work has stopped for 28 days. Planners are in discussions with the developer to rectify the issues. The site is to be monitored to ensure compliance with the notice.

#### **Burwash Manor Farm**

Without planning permission, the erection of children's play equipment within land designated as Green Belt. A retrospective planning application, reference S/3494/18/FL had been refused. The size, scale and height of the development is contrary to paragraph 144 of the National Planning Policy Framework (NPPF) 2019. The enforcement notice issued requires the owners to cease the use of the play equipment specifically the adventure tower and remove the play equipment from the land. The compliance period is one (1) month from the date it takes effect on the 21 May 2019 – A Planning Appeal has been submitted to the Inspectorate on the 20th May 2019 – Appeal allowed; Enforcement Notice quashed. Replacement notice to be drafted and served. Enforcement Notice served on 9<sup>th</sup> July 2020. Compliance visit to be carried out after 7<sup>th</sup> October. Late Appeal rejected by PIN's. Stephen Kelly in talks with owner to re-site playground on suitable land. Site visited by Enforcement and Environmental Health Officers 16<sup>th</sup> December. No agreement reached consideration to be given to prosecution for failing to comply with the enforcement notice.

Partial compliance with notice following joint site visit with Environmental Health. Consideration still being given to prosecution. Owner is considering whether to submit a new application to include acoustic fencing. Agent chased up for application.

#### **14A, Colts Croft, Great and Little Chishill, Royston, SG8 8SF**

Not constructed as approved plans in that section of the existing garage has not been demolished and rebuilt to a reduced size to allow for parking spaces and parking spaces have not been paved as specified. Breach of Condition Notice issued 05 November 2019. Owners have failed to comply with the requirements of the notice. 10 February 2020 prosecution file submitted to legal. 20 February 2020, Legal Officer allocated, awaiting issue of summons. Hearing set for 02 April 2020, postponed, Magistrates Courts are currently only dealing with emergency cases. Provisional court date 01 September 2020. Confirmation from Legal that case will not proceed on 01 September. Advised that courts are starting to list cases with firm dates. Advised by legal that defendants have written to the court entering a guilty plea. Court date fixed for 19<sup>th</sup> October at Cambridge Magistrates. CMC 19<sup>th</sup> October, owners found guilty in their absence, fined each £100, costs each £250, VSC each £32. Total £764.00.

Work has now started to comply with the Breach of Condition Notice. Revisit scheduled for week commencing 08/03/21. Site visited 11/03/21, notice complied with, no further action required.

#### **Elmwood House 13A High Street, Croxton, PE19 6SX**

Extension and garage granted permission by S/2126/18/FL, not constructed as approved plans and approved materials not used. Retrospective application S/0865/19/FL to retain as constructed refused. Enforcement Notice requiring garage and extension to be demolished served, 18 December 2019. Enforcement Notice appealed. Appeal process commenced. 29 April 2020.

Appeals resulted,

Appeal A, allowed on ground (f), the appellant now has three options, (i) Demolish completely, (ii) Demolish to brick plinth level and rebuild as S/2126/18/FL or (iii) Remove exterior render finish and replace with brick tiles to match existing and construct roof as approval S/2126/18/FL.

Appeal B, planning permission should be allowed for development as built, dismissed.

Compliance date 30<sup>th</sup> December 2020.

Site visit carried out on 18/01/21, notice has not been complied with.

Further Site visit 25/02/21, no change observed. Authorisation requested to proceed to prosecution.

Authorisation not yet received.

### **Background Papers**

Planning Enforcement Register.

Statistical Analysis of Uniform Planning Enforcement Software Program.

## **Appendices**

Appendix 1: Enforcement Cases Received and Closed.

Appendix 2: Notices Served.

## **Report Author:**

Alistair Funge – Acting Principal Enforcement Officer

Date: 29/03/21

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Enforcement Cases Received and Closed

Month – 2021	Received	Closed
January 2021	34	43
February 2021	53	27
October 2020	60	75
November 2020	30	10
December 2020	24	18
1 <sup>st</sup> Qtr. 2020	123	84
2 <sup>nd</sup> Qtr 2020	101	60
3 <sup>rd</sup> Qtr 2020	135	33
4 <sup>th</sup> Qtr 2020	114	103
1 <sup>st</sup> Qtr. 2019	135	134
2 <sup>nd</sup> Qtr. 2019	146	155
3 <sup>rd</sup> Qtr. 2019	177	154
4 <sup>th</sup> Qtr 2019	157	198
1 <sup>st</sup> Qtr. 2018	161	148
2 <sup>nd</sup> Qtr. 2018	156	167
3 <sup>rd</sup> Qtr. 2018	176	160
4 <sup>th</sup> Qtr. 2018	177	176
1 <sup>st</sup> Qtr. 2017	122	122
2 <sup>nd</sup> Qtr. 2017	157	165
3 <sup>rd</sup> Qtr. 2017	148	118
4 <sup>th</sup> Qtr. 2017	175	158
2021 - YTD	87	70
2020 - YTD	473	190
2019 - YTD	615	641
2018 - YTD	670	651
2017 - YTD	602	563
2016 - YTD	565	563
2015 - YTD	511	527
2014 - YTD	504	476

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Notices Served

1. Notices Served in February 2021

Type of Notice	Period	Calendar Year to date
	February 2021	2021
Enforcement	0	0
Stop Notice	0	0
Temporary Stop Notice	1	1
Breach of Condition	0	0
S215 – Amenity Notice	0	0
Planning Contravention Notice	0	0
Injunctions	0	0
High Hedge Remedial Notice	0	0

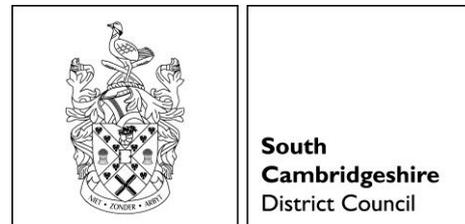
2. Details of Notices served in February 2021

Ref. no.	Village	Address	Notice issued
EN/01420/20	Linton	Croudace Site Land off Horseheath Road	Temporary Stop Notice for failure to discharge pre-commencement surface water scheme condition

Date: 29/03/21

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# Agenda Item 15



**Report to:** Planning Committee

13 April 2021

**Lead Officer:** Joint Director of Planning and Economic Development

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## Appeals against Planning Decisions and Enforcement Action

### Executive Summary

1. This report informs Members about appeals against planning decisions and enforcement action, and proposed hearing and inquiry dates, as of 31 March 2021. Summaries of recent decisions of importance are also reported, for information.

### Appendices

Appendix 1: Decisions Notified by the Secretary of State

Appendix 2: Appeals received

Appendix 3: Local Inquiry and Informal Hearing dates scheduled

### Report Author:

Ian Papworth  
Telephone Number:

Technical Support Officer (Appeals)  
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## Appendix 1

### Decisions Notified By The Secretary of State

Reference	Address	Details	Decision	Date	Planning Decision
EN/01239/20	41A Green End Fen Ditton	Artificial turf being laid on land in conservation area	Dismissed	22/02/2021	Enforcement Notice
S/3664/19/FL	Land East Of Haden Way Willingham	Erection of 5 dwellings comprising 1 x 4 bedroom detached 2 x 3 bedroom semi-detached and 2 x 2 bedroom semi-detached including garages parking and landscaping (resubmission of S/2127/19/FL)	Dismissed	23/02/2021	Refused
S/3083/19/OL	Land at Comberton Road Little Eversden	Outline planning permission for the erection of 8 dwellings with all matters reserved.	Dismissed	2/03/2021	Refused
20/02217/FUL	8 Millfield Cottenham	Change of use of land to form part of residential curtilage and the erection of a double garage.	Dismissed	11/03/2021	Refused
20/01211/REM	Land Adjacent To Home Farm Cottage Gamlingay	Approval of matters reserved for access, appearance, landscaping, layout and scale following outline planning permission S/2241/17/OL for the erection of two detached bungalows.	Dismissed	17/03/2021	Refused

## Appendix 1

20/02914/HFUL	3 Ley Grove Cottages Little Shelford	Retrospective demolition of asbestos garage and erection of garden room/studio on existing concrete slab and footings	Dismissed	18/03/2021	Refused
20/01369/HFUL	24 Mill Lane Linton	Single storey extension	Allowed	22/03/2021	Refused
20/03568/FUL	80 London Road Stapleford	Demolition of existing bungalow and the erection of 1 no. Detached dwellinghouse and garage together with alterations to the highways access and new driveway and boundary wall to front	Allowed	22/03/2021	Refused
20/03854/FUL	The White Horse, 113 Brewery Road Pampisford	Change of use of one office to a bedsit flat	Dismissed	22/03/2021	Refused
20/02895/FUL	McKay Commercial Services, Newmarket Road Stow Cum Quy	Erection of a building for Vehicle Sales & Repair and Office Use	Dismissed	22/03/2021	Refused
S/0670/19/FL	Land Rear Of 24-27 Paynes Meadow Linton	Construction of 26 Affordable homes including External works and Parking on land rear of No 8 to 30 Paynes Meadow Linton	Dismissed	25/03/2021	Refused

Appeals Received

Reference	Address	Details	Date Appeal lodged
S/1963/15/CONDA	Land to the North and South of Bartlow Road Linton	Submission of details required by condition 19 (iii) (Archaeology) of planning permission S/1963/15/OL	25/02/2021
S/4207/19/RM	Land North East Of Rampton Road Cottenham	Approval of matters reserved for appearance landscaping layout and scale following outline planning permission S/2876/16/OL for a residential development comprising 154 dwellings including access.	26/02/2021
20/05101/FUL	Land At The Retreat Fewes Lane Longstanton	Erection of a chalet bungalow with garage and associated infrastructure	19/03/2021
S/0277/19/COND9	Land At The Retreat Fewes Lane Longstanton	Condition 9 - Foul and surface water drainage	19/03/2021
S/4471/19/DC	Land At The Retreat Fewes Lane Longstanton	Discharge of condition 7 (Traffic Management Plan) of planning permission S/0277/19/FL	19/03/2021
S/2501/19/COND2	Land To The North And South Of Bartlow Road Linton	Condition 2 - Materials	22/03/2021
20/02297/OUT	Monica, Old North Road Bourn	Outline planning for the erection of 1 No. 1/2 Storey detached dwelling and double garage with all matters reserved (Re-submission of S/3743/19/OL)	23/03/2021

## Appendix 2

20/02250/FUL	19 Main Street Stow Cum Quy	Conversion of a timber-framed barn into a two bedroom dwelling	29/03/2021
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## Appendix 3

Local Inquiry and Informal Hearing dates scheduled

- **Local Inquiries**

Reference	Name	Address	Planning decision or Enforcement?	Date confirmed/ proposed
NIL	NIL	NIL	NIL	NIL

- **Informal Hearings**

Reference	Name	Address	Planning decision or Enforcement?	Date confirmed/ proposed
S/3873/17/OL	Mr A Ashley	Land at Mill Lane, Sawston	Planning Decision	5.05.2021 and 6.05.2021 Provisional dates
S/1625/18/OL	Mr A Ashley	Land at Mill Lane, Sawston	Planning Decision	5.05.2021 and 6.05.2021 Provisional dates
S/0913/19/VC	Mr J Hart	Apple Acre Park, London Road, Fowlmere	Non determination	TBC
S/4057/19/OL	Mr Andrew Adams, Axis Land Partnerships Ltd	Tanner And Hall Ltd Station Road Harston	Planning Decision	TBC
20/03254/OUT	Mr Andy Brand, The Abbey Group (Cambridgeshire) Limited	Land At And To The Rear Of 30 & 32 New Road	Non Determination	TBC
S/3696/19/FL	Station Yard Meldreth Limited	Former Stables Building Station Yard High Street Meldreth	Planning Decision	21.04.2021 Confirmed

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