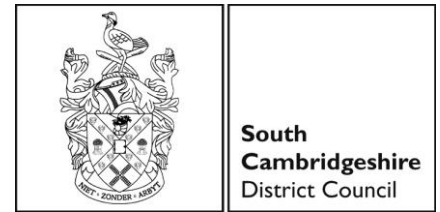


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18 May 2021

To: The Chair, Vice-Chair, Ordinary and substitute members appointed to serve on the Planning Committee at the Council Annual General Meeting held on 20 May 2021.

Quorum: 3

Dear Councillor

You are invited to attend the next meeting of **Planning Committee**, which will be held in the **Council Chamber, South Cambridgeshire Hall (but see below)** on **Wednesday, 26 May 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 page of the Council's website containing the online version of this agenda, 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

### Important Information for public speakers and those wishing to observe proceedings Pages

Following the end of temporary legislation allowing for public meetings to be conducted entirely virtually, it is now possible for public speakers to attend a meeting and speak in person. However, because we still need to follow government advice on indoor gatherings and social distancing, the seating available for members of the public will be severely restricted. We therefore would urge you to observe proceedings or participate remotely if possible. If you feel you really need to be present in person, please contact Democratic Services and request a place. Seats might only become available when other people leave the meeting.

1. **Chair's announcements**
2. **Apologies**  
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 Meeting** **1 - 10**  
To authorise the Chairman to sign the Minutes of the meeting held on 13 April 2021 as a correct record.
5. **20/02453/S73 - Longstanton (The Retreat, Fews Lane)** **11 - 174**  
  
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)
6. **20/03802/FUL - Orchard Park (Development Parcel L2, Topper Street)** **175 - 202**  
  
Residential development of 75 dwellings along with access, car parking, landscaping and all associated infrastructure
7. **20/02066/FUL - Harston (180 High Street)** **203 - 228**  
Erection of a residential development containing nine units comprising a mixture of houses and apartments along with access, car parking, landscaping and associated infrastructure following demolition of existing buildings
8. **20/02531/FUL - Graveley (Home Farm, Home Cottage,High Street)** **229 - 246**

|     |   |                  |
|-----|---|------------------|
|     | Barn replacement  |                  |
| 9.  | <b>20/02532/LBC - Graveley (Home Farm, Home Cottage, High Street)</b>                           | <b>247 - 258</b> |
|     | Barn replacement  |                  |
| 10. | <b>20/02593/OUT - Weston Colville (Garage Plot to North of 14 Horseshoes Lane)</b>              | <b>259 - 278</b> |
|     | Outline planning for the development of 1 No. detached dwellinghouse with all matters reserved. |                  |
| 11. | <b>Enforcement Report</b>   | <b>279 - 284</b> |
| 12. | <b>Appeals against Planning Decisions and Enforcement Action</b>                                | <b>285 - 292</b> |

#### **GUIDANCE NOTES FOR MEMBERS OF THE PUBLIC JOINING ONLINE**

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@scambs.gov.uk](mailto:democratic.services@scambs.gov.uk)



## **Notes to help those people visiting the South Cambridgeshire District Council offices (subject to amendment and restrictions to be advised)**

While we try to make sure that you stay safe when visiting South Cambridgeshire Hall, you also have a responsibility for your own safety, and that of others.

### **Security**

When attending meetings in non-public areas of the Council offices you must report to Reception, sign in, and at all times wear the Visitor badge issued. Before leaving the building, please sign out and return the Visitor badge to Reception.

Public seating in meeting rooms is limited. For further details contact Democratic Services on 03450 450 500 or e-mail [democratic.services@scambs.gov.uk](mailto:democratic.services@scambs.gov.uk)

### **Emergency and Evacuation**

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- **Do not** use the lifts to leave the building. If you are unable to use stairs by yourself, the emergency staircase landings have fire refuge areas, which give protection for a minimum of 1.5 hours. Press the alarm button and wait for help from Council fire wardens or the fire brigade.
- **Do not** re-enter the building until the officer in charge or the fire brigade confirms that it is safe to do so.

### **First Aid**

If you feel unwell or need first aid, please alert a member of staff.

### **Access for People with Disabilities**

We are committed to improving, for all members of the community, access to our 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. All meeting rooms are accessible to wheelchair users. There are disabled toilet facilities on each floor of the building. Infra-red hearing assistance systems are available in the Council Chamber and viewing gallery. To use these, you must sit in sight of the infra-red transmitter and wear a 'neck loop', which can be used with a hearing aid switched to the 'T' position. If your hearing aid does not have the 'T' position facility then earphones are also available and can be used independently. You can get both neck loops and earphones from Reception.

### **Other Facilities**

Facilities are available for nursing mothers. Please ask a member of staff for more information.

### **Toilets**

Public toilets are available on each floor of the building next to the lifts.

### **Recording of Business and Use of Mobile Phones**

We are open and transparent about how we make decisions. We allow recording, filming and photography at Council, Cabinet and other meetings, which members of the public can attend, so long as proceedings at the meeting are not disrupted. We also allow the use of social media during meetings to bring Council issues to the attention of a wider audience. To minimise disturbance to others attending the meeting, please switch your phone or other mobile device to silent / vibrate mode.

### **Banners, Placards and similar items**

You are not allowed to bring into, or display at, any public meeting any banner, placard, poster or other similar item. Failure to do so, will result in the Chairman suspending the meeting until such items are removed.

### **Disturbance by Public**

If a member of the public interrupts proceedings at a meeting, the Chairman will warn the person concerned. If they continue to interrupt, the Chairman will order their removal from the meeting room. If there is a general disturbance in any part of the meeting room open to the public, the Chairman may call for that part to be cleared. The meeting will be suspended until order has been restored.

### **Smoking**

Since 1 July 2008, South Cambridgeshire District Council has operated a Smoke Free Policy. No one is allowed to smoke at any time within the Council offices, or in the car park or other grounds forming part of those offices.

### **Food and Drink**

Vending machines and a water dispenser are available on the ground floor near the lifts at the front of the building. You are not allowed to bring food or drink into the meeting room.

## **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  
Tuesday, 13 April 2021 at 10.00 a.m.

PRESENT: Councillor Pippa Heylings – Vice-Chair in the Chair  
Councillor Henry Batchelor – Vice-Chair of the meeting

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

Officers in attendance for all or part of the meeting:

Christopher Carter (Delivery Manager - Strategic Sites), Aaron Coe (Senior Planning Officer), Alistair Funge (Planning Enforcement Officer), Bonnie Kwok (Lead Urban Design Project Coordinator), Stephen Reid (Senior Planning Lawyer), Jane Rodens (Senior Planner), Marie Roseaman (Policy Planner), Ian Senior (Democratic Services Officer), Michael Sexton (Senior Planning Officer), James Stringer (Cambridgeshire County Council), Lewis Tomlinson (Senior Planning Officer) and Alice Young (Planning Officer)

### 1. Chair's announcements

The meeting began with a short period of reflection following the sad news that His Royal Highness The Prince Philip, The Duke of Edinburgh, had died on Friday 9 April 2021

Councillor John Batchelor had resigned as Chair and as a member of the Planning Committee. This was so he could take up his new responsibility as the Lead Cabinet Member for Housing. Councillor Pippa Heylings said that, as his Vice-Chair since May 2018, she would like to thank him for the calm, informed and professional way he has chaired the Committee, especially during the past 12 months of virtual meetings necessitated by the Covid-19 Pandemic. Councillor Heylings thanked Councillor John Batchelor for the supportive and wise advice he had given her and led tributes from other Committee members.

Accordingly, and until Full Council had appointed a new Planning Committee Chair, Councillor Pippa Heylings would be chairing the Committee as Vice-Chair in the Chair. With the affirmation of the Committee, she appointed Councillor Henry Batchelor as Vice-Chair, again until Full Council confirmed an appointment.

For the benefit of members of the public viewing the live webcast of the meeting, Councillor Heylings 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.

Councillor Heylings 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.

## **2. Apologies and substitutions**

There were no Apologies for Absence.

## **3. Declarations of Interest**

Councillor Henry Batchelor declared

- a pecuniary interest in, and would withdraw from the meeting during the consideration of, Minute 10 (20/02098/S106a - Papworth Everard (Land between Church Lane and Ermine Street South, Church Lane)) because his employer had a business relationship with the applicant.
- A non-pecuniary interest in Minute 13 (Cambourne – proposed diversion of public footpath no. 7) as a member of Cambridgeshire County Council.

Councillor Anna Bradnam declared

- A non-pecuniary interest in Minute 7 (20/03370/OUT - Waterbeach (95 Bannold Road)). She had discussed the application with one of the local residents and given advice on how to address the matter. Councillor Bradnam was considering the matter afresh.
- A non-pecuniary interest in Minute 13 (Cambourne – proposed diversion of public footpath no. 7) as a member of Cambridgeshire County Council.

Councillor Peter Fane declared a non-pecuniary interest in Minute 5 (20/02929/OUT - Stapleford (Land Between Haverhill Road and Hinton Way)). As a local Member, Councillor had discussed the application with both the developer and with Stapleford Parish Council but was considering the matter afresh.

Councillor Dr. Tumi Hawkins declared a non-pecuniary interest in Minute 5 (20/02929/OUT - Stapleford (Land Between Haverhill Road and Hinton Way)). She knew members of the applicant company and had spoken with them in the past but not about this application. Councillor Hawkins was considering the matter afresh.

Councillor Judith Rippeth declared a non-pecuniary interest in Minute 7 (20/03370/OUT - Waterbeach (95 Bannold Road) as a local Member but was considering the matter afresh.

Councillor Deborah Roberts declared non-pecuniary interests in

- Minute 8 (20/03105/FUL - Fowlmere (Mill Farm, Fowlmere Road)) and
- Minute 9 (20/04223/HFUL - Fowlmere (20A Pipers Close)).

Councillor Roberts was a member of Fowlmere Parish Council, which had discussed both applications, but was considering both matters afresh.

Councillor Heather Williams declared

- a non-pecuniary interest in Minute 6 (20/03151/REM - Guilden Morden (Land South of Thompsons Meadow)). As the local Member, she had attended Guilden



Morden Parish Council meetings at which this application had been discussed. However, Councillor Heather Williams had taken no part in those discussions and was considering the matter afresh,

- a non-pecuniary interest in Minute 5 (20/02929/OUT - Stapleford (Land Between Haverhill Road and Hinton Way)). Councillor Heather Williams was a member of the Greater Cambridge Partnership Joint Assembly but was considering the matter afresh,

Councillor Nick Wright declared a non-pecuniary interest in Minute 10 ((20/02098/S106a - Papworth Everard (Land between Church Lane and Ermine Street South, Church Lane)). During the seven years that this application had been proceeding, he had been involved in meetings with the developer, Allia, Papworth Everard Parish Council and South Cambridgeshire District Council officers. At no stage had Councillor Wright expressed an opinion about the application, and he was considering the matter afresh.

The Chair noted that Minutes 11 and 12 (and 20/02453/S73 - Longstanton (The Retreat , Fews Lane))

#### **4. Minutes of Previous Meetings**

By affirmation, the Committee authorised the Vice-Chair in the Chair to sign as correct records

- The Minutes of the Extraordinary meeting held on 29 January 2021 subject to the correction in Minute 4 (S/2075/18/OL - Waterbeach (Land adjacent to Waterbeach Barracks and Airfield Site)) of the word 'notion' to 'motion' in the eighth line of the paragraph immediately after the bullet points
- The Minutes of the meeting held on 10 March 2021

#### **5. 20/02929/OUT - Stapleford (Land Between Haverhill Road and Hinton Way)**

The case officer said that although several representations had been received since publication of the agenda none had raised any issues not already addressed in the officer report. He confirmed that this was not an EIA application and that limited weight could be given to the release of housing stock. A document sent to Committee members the day before the meeting had been shared subsequently with other interested parties and had been uploaded to the planning portal.

Jenny Flynn (objector), Phil Grant (for the applicant), Councillor Howard Kettel (Stapleford Parish Council) and Councillor Barbara Kettel (Great Shelford Parish Council) addressed the meeting.

Councillor Nick Wright described the application as very harmful in terms of residential amenity and added that there was a need for the kind of agricultural land that would be lost if this development were to be permitted. While he accepted that proposals like the current one was needed in South Cambridgeshire this was not an appropriate location.

Councillor Judith Rippeth agreed that the proposal would cause planning harm, and Councillor Deborah Roberts took the view that there were no very special circumstances that might outweigh that harm.

Other comments raised were as follows:

- Local countryside views were important

- The accommodation available needed to benefit the local community and be affordable for local people
- The Green Belt existed for a purpose

Members noted the comments from Councillor Nick Sample (a local Member) which highlighted the need for housing for elderly people and for greater access to the countryside.

By affirmation, the Planning Committee **refused** the application for the reasons set out in the report from the Joint Director of Planning and Economic Development.

#### **6. 20/03151/REM - Guilden Morden (Land South of Thompsons Meadow)**

Speaking as the local Member, Councillor Heather Williams expressed concerns about highway safety and safety around the pond.

Councillor Anna Bradnam expressed concern about access to the site and the lack of public transport. She acknowledged though that, on balance, the application was more acceptable than it had been at the Outline stage.

By affirmation, the Planning Committee approved the application subject to the Conditions set out in an agenda supplement from the Joint Director of Planning and Economic Development.

#### **7. 20/03370/OUT - Waterbeach (95 Bannold Road)**

By way of clarification, officers advised Members to give significant weight to Appeal decision APP/W0530/W/20/3253436 relating to the adjacent site at land to the east of Cody Road and north of Bannold Road. Officers cited the proposal site's context and change of outlook as the reason for not identifying it as an exception site. Members noted that the proposal fell below the threshold at which any affordable housing could be required.

Ian Skidmore (objector), Nick Moys (applicant) and Councillor Jane Williams (Waterbeach Parish Council) addressed the meeting. Councillor Anna Bradnam spoke as a local Member.

In respect of drainage, the Delivery Manager (Strategic Sites), having sought clarification from colleagues expressed satisfaction with the nature and degree of local consultation. In particular it was confirmed that a consultation request had been sent to the correct Internal Drainage Board consultation email address, covering both Waterbeach and Old West IDBs. Upon the proposal of Councillor Anna Bradnam, seconded by Councillor Dr. Tumi Hawkins, and by affirmation, the Committee agreed additional wording in Condition 18 to secure ongoing management and maintenance of the piped ditch.

During the ensuing debate, Councillor Heather Williams questioned whether the proposal was compliant with Policy H/19(4). She considered five dwellings on the site to be overdevelopment such as to have a negative impact on neighbour amenity and local character. Councillor Heather Williams reminded Members that each application had to be considered on its merits and that the result of the neighbouring Appeal should not influence their decision about this application.

The case officer said that density was Policy-compliant.

After further debate and by six votes to five, the Planning Committee **approved** the application subject to the Conditions set out in an agenda supplement from the Joint Director of Planning and Economic Development, Condition 18 being amended to state as follows:

“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 and has been submitted to and approved in writing by the Local Planning Authority. The details shall include arrangements for the ongoing maintenance of the piped ditch along the frontage of the site. The development shall be carried out in accordance with the approved details.

Reason: To ensure the 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.”

(Councillors Henry Batchelor, Cahn, Fane, Hawkins, Heylings and Rippeth voted to approve the application. Councillors Bradnam, Roberts, Heather Williams, Richard Williams, and Wright voted to refuse it.)

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**During Item 8 (Fowlmere) and in accordance with Standing Orders, the Committee agreed by affirmation to continue the meeting beyond four hours.**

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**8. 20/03105/FUL - Fowlmere (Mill Farm, Fowlmere Road)**

The case officer reported that a further representation had been received since publication of the agenda, and that duplicate Conditions in the report would be deleted prior to the issue of a Decision Notice should the Committee grant planning permission. She said that the date for determination of the application was 28 September 2020. Officers were satisfied that the applicant's membership of South Cambridgeshire District Council's Design Enabling Panel did not present him with a conflict of interest.

David Grech (applicant's agent) and Councillor Laurence Wragg (Fowlmere Parish Council) addressed the meeting.

Councillor Deborah Roberts spoke as the local Member. She highlighted the proposal's proximity to the Royal Society for the Protection of Birds Reserve, a Site of Special Scientific Interest, and two important streams. Regardless of the quality of design, a proposal such as this had to be sensitive within its surroundings.

The Chair informed Members that they must ask themselves whether Policy H/15 of the South Cambridgeshire Local Plan 2018 and Paragraph 79(e) of the National Planning Policy Framework had been met in full.

Councillor Nick Wright accepted that the proposed building was exceptional but questioned whether it was appropriate in this location.

Councillor Dr. Martin Cahn agreed that the building should be considered as exceptional, using as a guide the prospect of it being worthy of listing in 30-40 years' time.

Noting that whether or not a building was exceptional was purely subjective, Councillor Heather Williams described the current proposal as no more than good. The evaluation as to whether the building was exceptional should be made by the Planning Committee rather than by an unaccountable body such as the Design Enabling Panel.

Councillor Anna Bradnam noted the design and sustainability of the building but said it must also enhance the character of the area in which it is located.

Councillor Deborah Roberts, speaking as a Committee member emphasised the importance of enforcing Policies in the Local Plan.

By six votes to four, the Planning Committee **approved** the application subject to the Conditions set out in the report from the Joint Director of Planning and Economic Development.

(Councillors Bradnam, Cahn, Fane, Hawkins, Rippeth and Wright voted to approve the application. Councillors Henry Batchelor, Heylings, Roberts and Heather Williams voted to refuse it. Councillor Richard Williams was not present and did not vote.)

**9. 20/04223/HFUL - Fowlmere (20A Pipers Close)**

After a very short debate, and by affirmation, the Planning Committee **approved** the application subject to the Conditions and Informative set out in the report from the Joint Director of Planning and Economic Development.

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**Councillor Henry Batchelor withdrew from the virtual meeting in accordance with his declaration of interest (Minute 3 refers). With the Committee's affirmation, Councillor Peter Fane was appointed Vice-Chair for the following item in Papworth Everard.**

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**10. 20/02098/S106a - Papworth Everard (Land between Church Lane and Ermine Street South, Church Lane)**

The case officer updated Members on representations received since publication of the agenda. None raised issues that had not already addressed in the officer's report.

The Senior Planning Lawyer advised the Committee that it was entitled to amend the trigger in the Legal Agreement from 7 months back to 24 months if it deemed it appropriate. He added that South Cambridgeshire District Council would need to apply for an Injunction to prevent occupation of the dwellings that had already been built.

Tim Jones (objecting on behalf of Allia), Nikki Fonseka (representing the applicant) and Councillor Chris Howlett (Papworth Everard Parish Council) addressed the meeting.

Councillor Nick Wright spoke as a local Member and said that the aim must be to deliver the project in the interests of the community. South Cambridgeshire District Council should enforce the 18-month trigger point. He expressed alarm at the prospect of houses being sold to purchasers who would then be liable under the Section 106 Legal Agreement. However, the Senior Planning Lawyer assured Members that the Legal Agreement was

robust.

Prior to a vote being taken, the Delivery Manager (Strategic Sites) was invited to provide some wording as to what Members' reason was should they be minded to vote for refusal. The Delivery Manager (Strategic Sites) read out some drafted text and Members agreed this as their reason for refusal.

By six votes to three, the Planning Committee **refused** the application contrary to the recommendation in the report from the Joint Director of Planning and Economic Development. Members agreed that the proposed variation to the Legal Agreement under Section 106 of the Town and Country Planning Act 1990 would fail to secure the delivery of the community building in a timely manner, resulting in up to 40 dwellings being occupied without adequate community provision. Consequently the proposal would be contrary to Policy H/4 of the South Cambridgeshire Local Plan 2018, which requires redevelopment of Papworth Everard West Central to secure a mix of community, employment and housing uses; and Policies SC/4 and SC/6 which require all housing developments to contribute towards the provision of indoor community facilities to meet the need generated by the development.

(Councillors Hawkins, Heylings, Rippeth, Roberts, Heather Williams and Wright voted to refuse the application. Councillors Bradnam, Cahn and Fane voted to approve it. Councillors Henry Batchelor and Richard Williams were not present and did not vote.)

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**Councillor Henry Batchelor  
resumed the role of Vice-Chair for  
the remainder of the meeting  
(Agenda items 11 to 15 inclusive).**

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**11. S/3215/19/DC - Longstanton (The Retreat, Few's Lane)**

The case officer updated the Committee on matters arising since it approved the discharge of Conditions 4 and 5 at its meeting on 13 January 2021. A further technical report had been received from Santech.

Daniel Fulton (objector) addressed the meeting. He pointed out that the starting point for a Local Planning Authority considering whether to discharge Conditions was the planning permission itself, including Conditions attached to that permission and plans relating to it. Mr. Fulton said that the original plan forming part of the planning permission had shown a large area of hardstanding whereas the plan now showed a gravel area. Mr. Fulton maintained that officers could not use a Discharge of Conditions application to change a plan material to the planning application but did have the power to make such a change if they followed the process set out in Section 96A of the Town and Country Planning Act 1990.

The Senior Planning Lawyer advised the Committee that he felt it could confirm the discharge of Conditions 4 and 5 today notwithstanding the comments from Mr Fulton.

Councillors Deborah Roberts, Heather Williams and Dr. Tumi Hawkins each addressed the meeting before the matter moved to a vote.

By nine votes to nil with two abstentions, the Planning Committee **approved** the application to discharge Conditions 4 and 5 attached to planning permission S/2937/16/FL as follows:

#### A. 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.

#### B. 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.

(Councillors Henry Batchelor, Bradnam, Cahn, Fane, Hawkins, Heylings, Rippeth, Richard Williams and Wright voted to approve the application. Councillors Roberts and Heather Williams abstained from voting.)

### 12. **20/02453/S73 - Longstanton (The Retreat, Fews Lane)**

Daniel Fulton (objector) and Gerry Caddoo (applicant) addressed the meeting.

Following a short debate about process, publicity and the importance of transparency in decision-making, and by six votes to five, the Planning Committee **deferred** the application to allow further representations to be considered by officers.

(Councillors Bradnam, Heylings, Roberts, Heather Williams, Richard Williams, and Wright voted to defer. Councillors Henry Batchelor, Cahn, Fane, Hawkins and Rippeth voted against deferral.)

### 13. **Cambourne - Proposed diversion of Public Footpath no. 7**

The Asset Information Definitive Map Officer at Cambridgeshire County Council summarised the report.

By affirmation, the Planning Committee **agreed** that

1. South Cambridgeshire District Council, as Order Making Authority, should approve 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.

2. South Cambridgeshire District Council should indicate its formal decision to Cambridgeshire County Council, as agents for the District Council.

#### **14. Enforcement Report**

The Committee received and noted an Update on enforcement action.

The Principal Enforcement Officer reported verbally that there had now been partial compliance with the Enforcement Notice relating to Elmwood House, 13A High Street, Croxton.

Members were introduced to Will Holloway, who would be taking over the role of Principal Enforcement Officer reporting to the Planning Committee from the next meeting onwards. Councillor Pippa Heylings acknowledged the valuable contribution made by Alistair Funge during the past year, made more challenging by the Covid-19 pandemic. She welcomed the fact that Mr. Funge would be continuing as a Senior Enforcement Officer within the Greater Cambridge Planning Service and led tributes to Mr. Funge from Committee members.

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

The Committee received and noted a report on appeals against planning decisions and enforcement action.

The Delivery Manager (Strategic Sites) referred to the decision made by the Planning Committee on 11 November 2020 in respect of S/3387/19/RM - Great Abington (Land rear of Strawberry Farm, Pampisford Road). The Decision Notice had been issued without some of the Conditions. That Decision Notice had now been quashed in the High Court and would be reissued with all Conditions attached.

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**The Meeting ended at 6.55 p.m.**

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# Agenda Item 5



South  
Cambridgeshire  
District Council

26 May 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, Fews 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:**

- The appropriateness of the amended Traffic Management Plan
- Highway Safety including the safety of all users of the adopted and unadopted highways in the vicinity of the site.
- Green Infrastructure policy NH/6 and additional third-party representations

**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 - 26 May 2021

1. Members will recall originally 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. However, the S73 planning permission was not issued following the 13 January 21 Planning Committee because of incorrect officer advice given with the meeting on the necessity of advertising the application as affecting a Public Right of Way (PROW) - which in fact had been carried out appropriately - and in relation to a late representation sent to Democratic services from 6 Mitchcroft Road on the evening of the 12<sup>th</sup> January 21 which had not been passed to planning officers and not reported to Members. The S73 application was subsequently reported back to the 13 April 21 Planning Committee with updates including in respect of the PROW issue, the representation from 6 Mitchcroft Road and with respect to a further late representation from Few Lane Consortium Limited (FLCL) received on 1 April 21 in relation to policy NH/6 and Green Infrastructure.
3. Members will therefore recall considering this application again at the 13<sup>TH</sup> April 2021 Planning Committee meeting where Mr Fulton, on behalf of FLCL, raised further concern that his representations were not wholly assessed within the officer reports. Officers recommended to members that the application be deferred again so the representations could be examined and addressed in full as necessary. Members resolved to defer the application to allow this to take place.
4. The representations from Mr Fulton on behalf of Few Lane Consortium Limited ("FLCL") on the 1<sup>st</sup> March 21 and 14<sup>th</sup> March 21 can be summarised as follows:
  - Objects on highway safety grounds – no safe access for the site and adverse impacts upon the safety of users of the public highway
  - The Local Highway Authority originally objected but changed its mind as the 'local highway authority has unlawfully taken into consideration an immaterial consideration, namely, the identity of the owner of land within the application site and the identify of owner of land outside the application site that is not owned by the applicant.'
  - Recommends conditions regarding the lane to be widened to 5m, insertion of 2m by 2m pedestrian visibility splays and the maintenance of such splays
  - The development to erect 5 houses has been divided amongst multiple planning applications for 1 or 2 houses at a time. The LPA should not consider these developments in isolation.
5. Subsequent to the 13 April 2021 Planning Committee, a judicial review pre-action protocol letter of 30 April 21 has also now been received from Mr Fulton on behalf of Few Lane Consortium Limited ("FLCL") for this application and another

application (20/05101/FUL) related to the adjacent site to the rear. The pre-action protocol letter can be summarised as follows:

- Article 7(l) of the 2015 Order states that an application form for planning permission specifies that a location plan must be submitted that complies with the following instructions: “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).”
- In the case of application S/0277/19/FL, the area outlined in red on the location plan, which is relied upon also by purported application 20/02453/S73, failed to include all the land necessary to carry out the proposed development contrary to Article 7 (l) of the 2015 Order. Specifically, the land outlined in red failed to include the land required for visibility splays.
- The LPA has no jurisdiction to entertain, much less approve, either application

### **Assessment**

6. Many of the matters raised in the FLCL representations of 1<sup>st</sup> and 14<sup>th</sup> March 21 are similar to those raised and dealt with within the S73 planning committee report of 13 January 21, summarised at paragraph 24 and assessed at paragraphs 40-44 of that report (see below).
7. That notwithstanding and because FLCL representations are that these matters have not been addressed fully, officers have further examined the original committee report to S/0277/19/FL. Paragraphs 43 – 55 of that report (author John Koch) deal with the planning merits of the suggested improvements to Fews Lane, the extent of the red line and visibility splays, issues which have been raised again under this S73 application. The relevant paragraphs from the original committee report are set out below:

*‘43: Paragraph 109 of the NPPF states developments should only be prevented or refused on highways grounds if there would be an ‘unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe’.*

*44: The local highway authority (LHA) initially objected as the application was not supported by sufficient pedestrian/cycle information to demonstrate that the proposed incremental development would not be prejudicial to the satisfactory functioning of the highway. The LHA requested that the pedestrian/cycle surveys be carried out, for the duration of 5 days Monday – Friday (not during the school holidays), between the hours of 7.30 – 9.30 and 15.00 – 17.00, along with details of weather on these days.*

*45: The applicant has since undertaken a survey for the use of Fews Lane by cycles and pedestrians. This was carried out between 27 March and 2 April. The survey results indicate that on average there were 10 pedestrian movements per hour up and down Fews Lane with a cluster of secondary school children during the a.m. and p.m. peaks representing almost 50% of all pedestrian movements. There was a record of just one cyclist during the week long survey. Full details of the survey are available to view on the Council’s website.*

46: Following the submission of the requested pedestrian/cycle information the LHA has withdrawn its request for refusal. As such, the LHA has not identified any unacceptable impact on highway safety. This is notwithstanding the survey information excludes highway users who pass the entrance to Few's Lane as suggested by an objector.

47: The LHA's approval is subject to conditions that the existing Public Right of Way (PROW) be constructed using a bound material, for the first ten metres from the back of the footway along High Street; the submission of a traffic management plan and 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.

48: The requested works requiring the surface of Few's 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 Cambridgeshire County Council.

49: The above conditions are considered necessary in this instance. No conditions are sought in respect of the width of the Lane at its junction with High Street or for pedestrian visibility splays to be provided as recommended by some local residents. Objections that the application is not valid as the red line plan does not take account of the necessary visibility splays are not relevant as no requirement for such splays to be provided is considered necessary.

50: In considering the residual cumulative impact on the road network, account is taken of the increased level of traffic due to the total cumulative development of the original curtilage of The Retreat, and the two other properties (built in the 1960's) which use Few's Lane for vehicular access. With the recent approval for a dwelling under reference S/2439/18/FL, the former curtilage of The Retreat will have been subdivided into a total of 5 separate residential plots with the two additional houses opposite.

51: So far as the residual cumulative impacts on the road network are concerned, there would typically be around 4.5 vehicular movements per dwelling over a 12-hour period. This means that with the two new dwellings the total number of vehicular movements would increase to approximately 31.5. The local highway authority has not raised any concerns that the existing free flow of traffic along the High Street will be materially affected. Significantly, the LHA has not considered the residual cumulative impact on the road network arising from a total of seven dwellings to be "severe" as per the wording in paragraph 109 of the NPPF.

52: Attention is drawn to the two appeal decisions attached as appendix 1 and 2. In the former appeal (from 1989), the inspector noted that Few's Lane served three dwellings and the appeal proposal would increase this to 4. He considered the junction of Few's Lane and High Street (then the route of the B1050 through the village) to be unsafe given visibility to the south was considerable impeded by vegetation. As the road is straight, it was anticipated that vehicles would be travelling close to the maximum permitted speed and this would have a harmful effect on traffic safety. No such overriding harm was found in respect of traffic travelling from a northerly direction.

*53: In the subsequent 2018 decision, the appeal inspector was aware that the B1050 had ran through the centre of Longstanton, but that the village by-pass now has a signposted route that skirts its western edge. He observed that traffic now has no need to take the old route to by-pass the village and that the time of his 9 a.m. visit on a school day, the level of traffic in the High Street appeared to be quite low. He opined there was no evidence to suggest these conditions were unusual. His conclusion was that although Fews Lane does not meet modern highway standards in terms of both its geometry and construction, the development would provide safe and appropriate access.*

*54: Officers conclude that there has clearly been a material change of circumstances in highway conditions between 1989 and 2018, namely the construction of the village bypass. This has had a material impact on traffic flows. The current application for an additional dwelling is also to be determined in accordance with the same road conditions that prevailed at the time of the second appeal.*

*55: Having had due regard to the matters already discussed, officers have no reason to dispute the conclusion of the LHA in respect of any highway related matters. The proposal therefore complies with policies TI/2 and TI/3.'*

8. It is clear from the above extract from the original application committee report (S/0277/19/FL) that the Inspector, for the related appeals on Fews Lane and officers robustly considered the Fews Lane highway safety issues. Officers considered the cumulative impact of the total amount of properties along Fews Lane. The proposed conditions by FLCL in relation to the upgrade of Fews Lane and visibility splays were not imposed on the original planning consent nor has the Highway Authority requested visibility splay conditions on the current application.
9. Neither members nor officers are bound to follow the advice of the Local Highway Authority. In relation to this S73 application and for purposes of clarity, the officer advice is that the ownership of Fews Lane is immaterial in the consideration of the necessity of upgrades to it, including those sought by FLCL.
10. Officer advice is that it is not necessary to seek to apply additional conditions as part of this S73 application to upgrade Fews Lane or provide or maintain pedestrian visibility splays through the imposition of a Grampian condition because the splays required are contained within the adopted highway. Material circumstances have not altered to suggest an alternative conclusion that improvements to Fews Lane are now necessary in order to grant planning permission. Officers are also of the view that given S/0277/19/FL did not impose the requirements to upgrade Fews Lane as sought by FLCL, that to impose additional requirements now under this S73 application - which is to amend the wording of the Traffic Management Plan - would not be reasonable, particularly in light of the fact that S/0277/19/FL could itself be implemented without such requirements (expiry date of permission 9 May 22).
11. It is to be noted that the current S73 application only seeks to amend the wording of the Traffic Management Plan condition and does not seek to change the design or layout of the approved dwellings. There also has been no material change in the surrounding context or planning policy to warrant forming an alternative view. The representations from FLCL do not raise any new material considerations to warrant a change to the officer recommendation.

12. The current application 20/02453/S73 is submitted pursuant to section 73 of the 1990 Act. Pursuant to article 7(1)(c)(i) of the 2015 Order, no location plan is required and therefore no location plan containing a red line and associated visibility splays has been submitted with this application as the location plan from the original consent is relied upon. Application S/0277/19/FL and the associated committee report considered representations concerning the adequacy of the access to the plot, proposed improvements including the widening of the Fewes Lane access, visibility splays and the extent of the red line. That permission can no longer be judicially challenged. The Council does not agree that it has no lawful authority to entertain the S73 application pursuant to s. 327A of the 1990 Act and article 7 of the DMPO 2015.
13. Notwithstanding that neither the S73 application nor S/0277/19/FL include a site location plan which extend to the adopted highway and include visibility splays, 1.5m pedestrian visibility splays are available within the adopted highway at the junction of Fewes Lane with the High Street. The Highway Authority has a duty to maintain the highway which includes the verge in this case. If the Highway Authority fails in this duty and an accident were to occur as a result of this failure, then that would be a matter for the Highway Authority to deal with. The pedestrian visibility splays available accord with the minimum recommendation of a 1.5m splay which is understood to be derived from a previous version of The Design Manual for Road and Bridges. The splay includes grass verge that forms part of the adopted public highway.
14. Officers have considered all third party representations which includes all the letters from FLCL. All substantive points have been addressed in this report and previous reports. This also includes a letter from FLCL dated 29<sup>th</sup> October 2020 which is contained within the bundle that forms an appendix to this report.
15. The remainder of this report is unedited from the reports that were presented previously.

### **Recommendation**

16. 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.

## Further UPDATE - 13 April Planning Committee

1. A further representation has been received from Fewes Lane Consortium on the 1<sup>st</sup> April. The following concerns have been raised (as summarised):
  - Fewes Lane constitutes an important east-west link in the existing green infrastructure of Longstanton and provides a connection to Northstowe.
  - The proposal would result in the removal of a hedge that run along the front of The Retreat which would impact upon wildlife and the character of the lane.
  - The proposal is therefore Contrary to policy NH/6 (Green Infrastructure) and HQ/1 (Design Principles) as it would the proposal does not preserve or enhance the character of the local area, damages the public amenity value of the public footpath, impinges upon the safety of users of the footpath and would result in Fewes Lane being dominated with car parking.
2. The original planning permission S/0277/19/FL was issued in May 2019 and therefore was assessed against the current Local Plan. This S73 application does not seek to alter the design of the proposal but seeks to amend the wording of condition 7 (Traffic Management Plan). 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. Issues regarding the surrounding character of the area, car parking and the safety of users have been considered under S/0277/19/FL and adequately assessed against the requirements of Policy HQ/1.
3. Officers accept that the removal of the hedge along the front of The Retreat would result in a degree of harm and would raise some conflict with Policy NH/6. However, given that the hedge is only one part of the green infrastructure of the lane, this loss is not considered to be significant in comparison and therefore would not warrant a refusal of the application on these grounds. Especially when taking into consideration the fall-back position of the extant planning permission and the fact that this S73 does not seek to alter the design of the proposal. The officer recommendation remains one of approval.

## Update Report - 13April 2021 Planning Committee

4. 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.
5. At the Planning Committee meeting, in response to a point specifically raised at the meeting by Mr Fulton on behalf of Few's 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.
6. 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.
7. 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.
8. 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
9. 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.
10. The remainder of this report is unedited from the report that was presented to the October Planning Committee meeting as set out below.

### Recommendation



11. 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

12. 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

13. 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

14. 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

#### 15. National Guidance

National Planning Policy Framework 2019 (NPPF)  
Planning Practice Guidance  
National Design Guide 2019

## **16. 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

## **17. 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)**

18. 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**

19. This variation application does not relate to contaminated land and therefore I have no comments to make.

### **Drainage**

20. Drainage has no comments to this variation

### **Environmental Health Officer**

21. 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**

22. 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.

23. 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**

24. Representations have been received from The Elms, Fewes Lane (The Fewes 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**

25. 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.
26. 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**

27. 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.

28. 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.”*

29. 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*

30. The application is accompanied by the following supporting information:

- Traffic Management Plan prepared SLR dated December 2019

31. 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

32. 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]

33. 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.
34. 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

35. 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.



36. 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: Fews 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.*

37. 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.

38. 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.
  
39. 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.
  
40. 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.
  
41. 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.

42. 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.

43. 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, 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 regard to both applications as the pre-action protocol has now been completed....”

44. 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**

45. 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 Fews 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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27 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: 20/02453/S73**

- (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 20/02453/S73 for the demolition of the existing bungalow and the erection of two dwellings with parking at The Retreat, Fews Lane, Longstanton, Cambridge CB24 3DP.
- (4) The decision to be challenged is the Council's decision to entertain planning application 20/02453/S73 contrary to the provisions of section 327A of the Town and Country Planning Act 1990 (the "**1990 Act**") and article 7(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (the "**DMPO 2015**").
- (5) The prospective claimant considers the applicant to be an interested party. A copy of this letter has been sent to the applicant, Landbrook Homes Ltd, at 36a Church Street, Willingham, Cambridge CB24 5HT.
- (6) Article 7(1) of the DMPO 2015 states that an application for planning permission must "include the particulars specified or referred to in the form".
- (7) 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)."
- (8) 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.

(9) Section 327A of the 1990 Act 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) The question of whether or not visibility splays are required in order for the proposed development to be acceptable in planning terms is a matter of planning judgment that is within the purview of the decision maker. However, pursuant to section 327A of the 1990 Act, the Council does not have the discretion to decide that it will entertain an application that fails to comply with a requirement as to the form or content of any document which accompanies the application.

(11) 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.

(12) Should the Council proceed with its unlawful consideration of the application, the prospective claimant will seek a court order to quash the Council's decision to validate and subsequently entertain the application, a declaration that Council has erred in law, and an order that the Council pay the prospective claimant's costs in the claim.

(13) 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.

(14) 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).

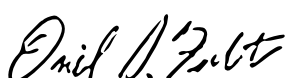
(15) Although funding has not yet been arranged for the claim, the Consortium does not envisage that it will be necessary to propose any variation of the standard limits on recoverable costs as stated in Parts 45.43(2)(b) and 45.43(3) of the Civil Procedure Rules.

(16) 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.

(17) 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.

(18) The Consortium would like to propose a reply date of 10 August 2020, which is 14 days from the date of this letter.

Kind regards



Daniel Fulton  
Director

**From:** Stephen Reid  
**Sent:** 27 July 2020 14:16  
**To:** Daniel Fulton <[dgf@fewslane.co.uk](mailto:dgf@fewslane.co.uk)>  
**Cc:** Sharon Brown <[Sharon.Brown@greatercambridgeplanning.org](mailto:Sharon.Brown@greatercambridgeplanning.org)>; Nigel Blazeby <[Nigel.Blazeby@greatercambridgeplanning.org](mailto:Nigel.Blazeby@greatercambridgeplanning.org)>; Smith Jemma <[Jemma.Smith@scambs.gov.uk](mailto:Jemma.Smith@scambs.gov.uk)>; Sexton Michael <[Michael.Sexton@greatercambridgeplanning.org](mailto: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 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:** 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**

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**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

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

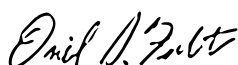
Dear Mr Reid

**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

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

Practice Ref: SR  
Your Ref:

Date: 18 August 2020

Dear Sir

**Proposed Claim for Judicial Review in Relation to Prospective Planning Permission  
20/02453/S73**

We write in relation to your pre-action protocol letter dated 27th July 2020 in which you indicate your intention to challenge by way of judicial review the Council's decision to entertain a planning application ref 20/02453/s73.

**The Prospective Claimant**

[REDACTED]

The Prospective Claimant would be Fews Lane Consortium Ltd.

**The Prospective Defendant**

[REDACTED]

3C Shared Services – The Legal Practice

[REDACTED]th Cambridgeshire Hall

[REDACTED]

[REDACTED]

**Response to the claim**

3. Subject to the applicant submitting a red line location plan identical to that submitted under planning reference S/0277/19/FL and/or the applicant confirming the s.73 application is in relation to the same red line location plan submitted under planning reference S/0277/19/FL any claim challenging a planning permission because the red line location plan does not show vehicular visibility splays will be considered to be without merit and will be resisted.
4. Your claim challenges a section 73 application under planning reference 20/02453/s73 (the "Application") in relation to the grant of planning permission for the erection of 2 dwellings with parking.
5. The principles on which a claim for judicial review of a decision to grant planning permission may be brought have been shortly stated by Lord Justice Lindblom in *Mansell v Tonbridge and Malling BC* [2017] EWCA Civ 1314 at paragraph 42. We do not set out these fundamental principles out in full in this letter but they are referred to where appropriate below.
6. While your letter of 27th July 2020 makes various assertions by way of complaint about the omission of visibility splays it is felt the Consortium has failed to substantiate how an alleged error of law will arise .
7. The Council has noted earlier complaints on a similar matter in relation to a planning application for development in Waterbeach. In response to that complaint, the Council sought advice from Counsel and responded to the Consortium. The Councils advice from Charles Streeten of Counsel on that matter was provided to the Consortium.
8. Turning to the points made at paragraph 10 of your letter, and which is set out below for ease of reference.  
  
*"..(10) The question of whether or not visibility splays are required in order for the proposed development to be acceptable in planning terms is a matter of planning judgment that is within the purview of the decision maker. However, pursuant to section 327A of the 1990 Act, the Council does not have the discretion to decide that it will entertain an application that fails to comply with a requirement as to the form or content of any document which accompanies the application..."*
9. The basis of the Consortium's proposed claim is an allegation that any decision to grant planning permission for the Development pursuant to the Application 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"). It appears alleged that the land outlined in red on the location plan for S/0277/19/FL 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.
10. In relation to the similar point raised by the Consortium albeit on a completely different site and in a completely different location Charles Streeten of FTB has advised that for the reasons set out further below he is 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 breach of the requirements of the 2015 Order.
- b. Provided land on which any operational development will take place is within the red line boundary, and the remaining land is adopted highway, Mr Streeten is of the view that the requirements of the 2015 Order will be complied with and it is not necessary to include in the red line boundary all of the land required as visibility splay where such land is part of the adopted highway
- c. Even if he is wrong in relation to the above, the prospect of a claim for judicial review succeeding in the case where he was asked to advise was low. Given the similarities of that matter and the current complaint, the Council is of a similar opinion in relation to the Application provided that a red line boundary plan is submitted in a form identical to that submitted under S/0277/19/FL and/or the applicant confirming the s.73 application is in relation to the same red line location plan submitted under planning reference S/0277/19/FL.

## 11. Law

### The Statutory Scheme

11.1 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.

11.2 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.”*

11.3 A local planning authority should not entertain an application for planning permission unless it complies with the requirements of the 2015 Order but please note the comments under paragraphs numbered 12 and 22 below.

## 12. Non-Compliance with the DMOP

12.1 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.

13. **Article 7 of the 2015 Order**

13.1 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.

13.2 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).”*

14. 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.”*

15. In interpreting these words Mr Streeten has advised that 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**

16. The particular point at issue is the location of the visibility splays required by the Highway Authority to ensure the access to the Development is safe. In relation to the visibility splays for the junction of Fews Lane and High Street Longstanton all the land outside the red line boundary covered by those visibility splays is within the existing adopted highway. The Highway Authority officers have confirmed their view that no other land is required to secure the necessary visibility for this development.

17. The issue, therefore, is whether ,subject to a location plan for the section 73 Application being submitted in a form identical to that submitted under S//0277/19/FL and/or the applicant confirming the s.73 application is in relation to the same red line location plan submitted under planning reference S/0277/19/FL, planning permission pursuant to the s.73 application for the Development pursuant to the s.73 Application can be granted, notwithstanding that an area included within the visibility splay is on adopted highway outside the red line boundary. The view of the Council is that it can:



- 18.1 Firstly, the text of both the application form and the guidance refers to “all land necessary to carry out the proposed development”. Mr Streeten’s has expressed a view that 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 may need to be shown within the red line boundary. Where, however, 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.
- 18.2 Secondly, Mr Streeten has advised that an over literal reading of the application form and PPG would create absurd results. As I have pointed out to you in the past, both refer to car parking and open areas around buildings. If, however, 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 which is not being provided or required . 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.
19. Mr Streeten, 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), advised in relation to the other matter 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.
20. Applying these principles, Mr Streeten expressed an opinion as set out below (in the case where he was asked to advise):
- 20.1 *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.*
- 20.2 Provided that the red line boundary includes 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.
21. In the other case, Mr Streeten advised that even if he is wrong, he is of the view that the prospects of bringing a successful claim for judicial review in that case would be low and he 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. His view was that he felt 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. The same point is considered by the Council to apply here.

110 In any event, even if (which is denied) there was some error in the validation process, the Court has a discretion whether or not to quash a grant of planning permission, depending on a variety of factors, including:

- the consequences of non-compliance,
- the nature of the failure,
- the identity of the applicant for relief,
- the lapse of time ,and
- the effect on other parties

23. The Consortium have (in the other case where Mr Streeten has advised) suggested that :

*“... 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...”*

It is the Council’s view that this suggestion is not the relevant legal test as to whether an application is valid.

24. For all of the reasons set out or referred to above , the Council will resist any application for judicial review.

25. The Council has noted that the Consortium would prefer to resolve the dispute without the need for legal proceedings and that the Consortium would agree to participate in an appropriate form of ADR. In the other case referred to above, the Consortium were sent a copy of the advice from Mr Streeten and the Consortium were invited to take their own advice from counsel so that any points in such an advice could be put to Mr Streeten for him to review. It appears that such advice has not been sought by the Consortium, notwithstanding the Council’s invitation and in these circumstances the Council would like further details of what sort of appropriate form of ADR the Consortium has in mind and what the Consortium feels it could achieve.

26. Finally, we agree that the applicant for planning permission, Landbrook Homes Ltd , would be an interested party in respect of any claim.

Yours faithfully



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

Tel: 01223 457094  
Email: [Stephen.reid@3csharedservices.org](mailto:Stephen.reid@3csharedservices.org)

Fews  
Lane  
Consortium  
Ltd

Daniel Fulton  
DIRECTOR  
T: 01954 789237  
E: dgf@fewslane.co.uk

The Elms  
Fews Lane  
Longstanton  
Cambridge  
CB24 3DP

20 August 2020

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

WITHOUT PREJUDICE SAVE AS TO COSTS

Dear Sirs

**Re: 20/02453/S73 – The Retreat, Fews Lane, Longstanton, Cambridge CB24 3DP**

(1) Thank you for the Council's judicial review pre-action protocol response dated 18 August 2020.

[REDACTED]

[REDACTED]

[REDACTED]

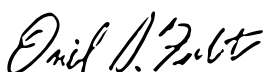
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Kind regards



Daniel Fulton  
Director

**From:** Stephen Reid  
**Sent:** 21 August 2020 14:38  
**To:** Daniel Fulton <[dgf@fewslane.co.uk](mailto:dgf@fewslane.co.uk)>  
**Subject:** FW: Your scanned files  
**Importance:** High

Dear Mr Fulton

1. I acknowledge your letter dated 20th August

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[REDACTED]

20 August 2020  
South Cambridgeshire District Council  
FAO Mr Stephen Reid / 3C Shared Services Legal Practice  
South Cambridgeshire Hall  
Cambourne Business Park  
Cambourne  
Cambridge CB23 6EA


WITHOUT PREJUDICE SAVE AS TO COSTS

Dear Sirs

Re: 20/02453/S73 – The Retreat, Fewes Lane, Longstanton, Cambridge CB24 3DP

(1) Thank you for the Council's judicial review pre-action protocol response dated 18 August 2020.

[REDACTED]



Kind regards  
Daniel Fulton  
Director

Stephen Reid  
Senior Planning Lawyer  
3C Shared Services – Legal Practice

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  - 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)
- .

The Elms  
Fews Lane  
Longstanton  
Cambridge  
CB24 3DP

3 December 2018

Ms Victoria Keppey  
South and City Highways  
Cambridgeshire County Council  
Station Road  
Whittlesford  
Cambridge  
CB22 4NL

Dear Ms Keppey

**Re: SCDC Planning Application S/2439/18/FL**

Thank you for the information you provided recently concerning the statutory consultation for the planning application referenced above.

- (1) As a statutory consultee, the County Council has a legal obligation to issue a substantive response in regards to the consultation pursuant to article 22 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (S.I. 2015/595).
- (2) As defined by the Government's Planning Practice Guidance, a statutory consultee's substantive response "should include reasons for the consultee's views so that where these views have informed a subsequent decision made by a local planning authority the decision is transparent".<sup>1</sup>
- (3) At present, the only substantive response received by the South Cambridgeshire District Council in regards to the above referenced application is dated 17 July 2018 and requests that the application be refused.
- (4) I am aware that other informal communications have been ongoing between the County Council and at least one officer employed by the South Cambridgeshire District Council ("SCDC"). Although these informal communications may have discussed changes in regards to the consultation response, no updated substantive response has been received by the District Council in regards to the statutory consultation.
- (5) It is my understanding that the role the Local Highway Authority in the statutory consultation process is to evaluate the application and make recommendations to ensure satisfactory access arrangements are included within the proposed development and to ensure that the proposed development does not adversely affect the safety of highway users.

<sup>1</sup> Ministry of Housing, Communities & Local Government. *Planning practice guidance: Consultation and pre-decision matters*. Paragraph: 015. Reference ID: 15-015-20140308. Revision date: 08 03 2014. Published on GOV.UK [<https://www.gov.uk/guidance/consultation-and-pre-decision-matters#Statutory-consultees>]. Accessed 1 Dec 2018.

- (6) It is also my understanding that the Local Highway Authority performs this role by evaluating each application in light of the national highways policies that apply to the particular application.
- (7) In regards to application S/2439/18/FL, the principal relevant national policies will be included in the *Manual for Streets* ("MfS"), *Manual for Streets 2* ("MfS2"), and the National Planning Policy Framework ("NPPF").
- (8) There are a number of specific highway safety concerns that the County Council has a duty to address. These issues are summarised in paragraphs 9 through 19.
- (9) Fews Lane is both a private vehicular track and well-used public footpath. The width of the carriageway at present is insufficient for a vehicle and a pedestrian travelling in opposite directions to pass without the pedestrian or the vehicle departing from the carriageway and stepping or driving onto adjoining private property.
- (10) Fews Lane was originally intended to serve 3 dwellings. Approval of this application would double the number of dwellings served to 6. Each dwelling has garage or parking space for 3 vehicles, and the proposed dwelling adds another 2 parking spaces. In addition to the total daily vehicular movements of the residents, approximately an equal number of vehicular movements along Fews Lane occur each day due to service vehicles, for example for Royal Mail or parcel delivery services.
- (11) The width of Fews Lane is insufficient to allow two vehicles travelling in opposite directions to pass each other along the length of Fews Lane without one vehicle either trespassing by driving onto private property or by one vehicle reversing out of Fews Lane to allow the other vehicle to proceed.
- (12) During heavy rain, water and sediment is washed from Fews Lane into the public highway.
- (13) The surface of Fews Lane is composed of dirt and gravel, and these unbound materials tend to spread into the public highway, which will only be exacerbated by increased vehicular traffic.
- (14) When vehicles are exiting Fews Lane onto High Street, there is ZERO visibility of pedestrians walking along the footway to the south of the junction.
- (15) In order to see any pedestrians on the footway, a vehicle must pull forward so that the front of the vehicle not only enters the footway, but it must entirely cross the footway and enter the carriageway. It is not until this point where the front of the vehicle has already entered the public highway that there is sufficient visibility for a driver of oncoming vehicular traffic or of pedestrians on the footway.
- (16) The bus stop used by the schoolchildren from the northern half of the village is located only a few meters away from the junction of Fews Lane and High Street. Not only are children shorter and more difficult for drivers to see, but they also have a natural tendency to run along the pavement. The ZERO visibility factor combined with the proximity of the school bus stop is a recipe for disaster. I will retain this letter together with proof of delivery to prove that the County Council has been advised of this serious and dangerous existing defect.



- (17) The spatial layout and width of the proposed vehicular access fails to comply with section 6.7.2 of the *Manual for Streets*, which sets the minimum vehicular access requirements for emergency vehicles, including fire appliances. Specifically, there is to be sufficient emergency vehicular access for a fire alliance to reach every point within 45 meters of a dwelling. In cul-de-sacs, this requires sufficient turning radii at any turns and turning heads sufficient for fire department vehicles at the end of a cul-de-sac or where a tight turning radius would require a fire appliance to turn around.
- (18) With no sufficient turning head provided, the closest vehicular access to the site of the proposed development is located on High Street at the intersection with Few's Lane. This is a distance of approximately 140 meters by foot from the further point of the dwelling, far in excess of the 45 meters stated in the *Manual of Streets* and other regulatory documents.
- (19) The Cambridgeshire Fire and Rescue Service has confirmed that the application does not meet their minimum requirements for vehicular access. Specifically, the minimum carriageway width between kerbs for the service's fire appliances is 3.7 meters. The vehicular access space available at the application site is limited to 3.5 meters, and this is restricted on one side by a fence erected directly over the kerb and by private property including a brick chimney and house on the other side.
- (20) In light of the issues above, the County Council has a duty and obligation to request that the application in its present form be refused.
- (21) The County Council should also request that the following conditions be attached to any permission granted despite the Local Highway Authority's request for refusal.
1. That the first 5 meters of Few's Lane should be constructed of a bound material so as not to adversely affect the public highway.
  2. That the width of Few's Lane be increased to a minimum width of at least 5 meters for the 5 meters measured from the back of the footway along High Street. This would allow two vehicles travelling in opposite directions to pass each other without either vehicle having to reverse, which would represent an unacceptable danger to other highway users.
  3. That pedestrian visibility splays of at least 2.0 x 2.0 meters shall be constructed at the intersection of High Street and Few's Lane.
  4. That a pedestrian visibility splay of at least 2.0 x 2.0 meters shall be constructed at the junction of the parking and turning area for the proposed development with the unnamed private drive that extends to Few's Lane.
  5. A condition requiring that surface water not run from the application site into the public highway.
  6. Conditions necessary for the safety of highway users during the construction of the proposed development to include limits on hours of access, parking, and unobstructed emergency access.
  7. Any such other conditions as are warranted by the particulars of the proposal in light of the national highway safety policy documents.

(22) I would urge the County Council to review its substantive response dated 17 July 2018 to ensure that it addresses the points raised in this letter.

(23) The actions and performance of the County Council will be subject to legal scrutiny to ensure that the County Council has adequately fulfilled its legal duties and that the County Council's substantive response complies with all relevant provisions of public law.

(24) Lastly, I would note that the appeal decision recently issued regarding another application at this site contains many factual errors. Whilst it can be material consideration in the planning process, I would caution the County Council against intending to rely on any part of the appeal decision in the performance of its duties in regards to this new application. The South Cambridgeshire District Council has been made aware of these defects in the appeal decision and has been informed that a claim for judicial review will be brought should they rely on these known errors of fact in determining this application.

I can be reached most days at 01954 789237 or on my mobile at 07944 908340. I would be happy to speak with you or anyone from the County Council if I can provide any further information regarding this matter.

Kind regards



Daniel Fulton

copy by email to Dr Jon Finney, Cambridgeshire County Council

My ref:  
Your ref:  
Date: 12<sup>th</sup> December 2018  
Contact:  
Telephone: 0345 045 5212  
E Mail: [Victoria.keppey@cambridgeshire.gov.uk](mailto:Victoria.keppey@cambridgeshire.gov.uk)



The Elms  
Fews Lane  
Longstanton  
Cambridge  
CB24 3DP

Whittlesford Depot  
Box No. ET1030  
Station Road  
Whittlesford  
CB22 4NL

Dear Mr Fulton ,

**Re: Planning Application S/2439/18/FL**

Thank you for your letter of 3<sup>rd</sup> December, I have reviewed the same and have the following comments:

**1,2, 3 and 4.** From discussions with the Local Planning Authority the Local Highway Authority have provided a substantive response. However for clarity in this case the case officer has requested that the comments made by the Local Highway Authority via email dated 14<sup>th</sup> September 2018 will be formally submitted, prior to the determination of the application.

**5.** The Local Highway concurs with this statement.

**6 and 7.** Manual for Streets Volume I and II are guidance not policy and are written in such a manor to enable the Highway Authority to consider sites on a contextually based premises.

**9.** The situation that you describe in relationship to the width of the footpath and its use by motor vehicular traffic is not uncommon in a rural district such as South Cambridgeshire and there is no evidence that this conflict is significant in highway safety terms while you state that the public footpath is well used no empirical data is supplied to support this assertion.

**10.** According to SCDC planning website Few's Lane has a planning history dating back to 1961 and these applications include for the provision of residential dwellings which will have resulted in low level incremental increase in motor vehicular traffic over this timeframe, therefore the planning application approving two dwellings (S/1498/15/FL) including the one that you now occupy is only one in a reasonably long line of such applications. In terms of traffic generation on average each new dwelling will generate 4.5 motor vehicle movements per 12 hour period, which cannot

be considered sever as required under paragraph 109 of the NPPF to warrant a recommendation of refusal by the Local Highway Authority to the Local Planning Authority.

11. As stated previous above within the response to point 9 the situation that you describe in relationship to the width of the footpath and its use by motor vehicular traffic is not uncommon in a rural district such as South Cambridgeshire and there is no evidence that this conflict is significant in highway safety terms.

12. As Few's Lane is a public highway the water draining from Few's Lane to High Street is draining from one highway to another if the deposition of silt etc from Few's Lane is considered to be significant the Highway Authority may take any action that it deems necessary.

13. The Local Highway Authority believes that there is a slight possibility that this will occur, the Local highway Authority can request that the 2m width of the Public Right of Way be constructed in a bound material.

14, 15. The Local Highway Authority believes this statement to be incorrect and that the pedestrian visibility splays as required within Design Manual for Roads and Bridges of 1.5m x 1.5m could be achieved to the back of the footway when exiting Few's Lane.

16. All accesses are a point of conflict the existing bus stop and existing access are considered to be within the normal range of risks and hazards that a user of the highway should expect to meet and that any vehicle exiting onto the High Street should take into consideration.

17, 18 and 19 Cambridgeshire Fire and Rescue Service are statutory consultees and therefore if this consultee had concerns with regards to the access these should/would have been raised with the Local Planning Authority during the consultation period.

20. Following the lack of substantive empirical evidence and only relying on subjective information the Local Highway Authority has no reason to recommend a refusal of this application to the Local Planning Authority.

21. The Local Highway Authority can only request works within land that is within the ownership of the applicant or within the public highway.

1,2. as confirmed previously the applicant does not own the access and the public right of way is only approximately 2m in width in this location therefore the access cannot be widened to 5 metres in width, however it could be constructed in a bound material for 5m from the rear of the footway and the Local Highway Authority will seek a condition to reflect this.

3. as stated above within points 14,15 the Local Highway Authority believes that pedestrian visibility splays of 1.5m x 1.5m as per Design Manual for Roads and Bridges can be achieved at the junction of Few's Lane and the High Street.

4. As the access to the approved properties under planning application S/1498/15 shows radii kerbs it would be impractical to provide the requested pedestrian visibility splays.

5. This could be encompassed within the Local Planning Authority's normal requirement for a condition relating to surface water drainage.

6. This condition is being dealt with in the form of a traffic management plan which has been submitted as a part of application number S/2439/18, the Local Highway Authority request that the application be refused as the Traffic Management Plan is not satisfactory still stands.

7. The Local Highway Authority will request any conditions that it deems fit with regards to the submitted application as long as these comply with the community infrastructure levy requirements and this is a matter for the Local Planning Authority to review.

22. Comments made by the Local Highway Authority have been reviewed and highway comments will be formally submitted, prior to the determination of the application.

23. It is my understanding that this is true of all planning applications.

24. The Local Highway Authority only considers the application submitted before them and can confirm that no information from any previous applications has been considered.

I have forward a copy of your representation to the Local Planning Authority for their consideration.

Yours sincerely

Vikki Keppey  
Development Management Engineer

Fews  
Lane  
Consortium  
Ltd

Daniel Fulton  
DIRECTOR  
T: 01954 789237  
E: dgf@fewslane.co.uk

The Elms  
Fews Lane  
Longstanton  
Cambridge  
CB24 3DP

23 August 2020

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

VIA EMAIL ONLY

WITHOUT PREJUDICE SAVE AS TO COSTS

Dear Mr Reid

Planning application 20/02453/S73

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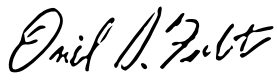
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Kind regards



Daniel Fulton  
Director

c. Mr Stephen Kelly



Dear Fews Lane Consortium Ltd

**Planning application 20/02453/S73**

Please see comments in red and blue below in response to your letter of 23 rd August and the body of which letter is set out below (in black) for ease of reference

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Yours faithfully

**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)

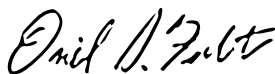
3 September 2020

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

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



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

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

**From:** Stephen Reid  
**Sent:** 08 September 2020 10:17  
**To:** Daniel Fulton <[dgf@fewslane.co.uk](mailto:dgf@fewslane.co.uk)>  
**Cc:** Fiona Bradley <[Fiona.Bradley@greatercambridgeplanning.org](mailto:Fiona.Bradley@greatercambridgeplanning.org)>; Simpson Luke <[Luke.Simpson@greatercambridgeplanning.org](mailto: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)

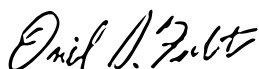
(38) The location plan fails to identify the land to which the application relates as is required under article 7(1)(c)(i) of the 2015 Order. Application 20/03370/OUT is therefore invalid and can not be determined pursuant to sections 65 and 327A of the 1990 Act.

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

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: 20/02453/S73 - The Retreat, Fews Lane, Longstanton**

- (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 20/02453/S73, which concerns development proposed at The Retreat, Fews Lane, Longstanton, Cambridge CB24 3DP.
- (4) The prospective claimant considers the applicant, Landbrook Homes Ltd ("**Landbrook**") to be an interested party. A copy of this letter has been sent to Landbrook by first class post at 36a Church Street, Willingham, Cambridge CB24 5HT.
- (5) The Council's consideration of planning application 20/02453/S73 is unlawful pursuant to section 327A of the Town and Country Planning Act 1990 (the "**1990 Act**") because the application for the existing planning permission to which the current application relates 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) Although often referred to in common parlance as an application to "vary" or "remove" planning conditions, an application submitted under section 73 of the 1990 Act, if approved, creates a new planning permission that runs alongside the extant planning permission. (*Lambeth LBC v Secretary of State for Housing, Communities and Local Government* [2019] UKSC 33, [2019] 1 W.L.R. 4317 at [10]-[11])
- (7) In considering an application submitted under section 73 of the 1990 Act, a local planning authority must consider the entire scheme being applied for in accordance with the relevant policy tests, not merely consider the applicant's proposed changes to the extant planning permission. (*R (Stefanou) v Westminster City Council* [2017] EWHC 908 (Admin) at [88]-[89])

(8) The planning permission granted in regards to application S/0277/19/FL incorporates the application form and the plans, drawings, and documents accompanying the application form into the terms of the planning permission by including a statement to that effect in the operational part of the planning permission.

(9) 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.”

(10) 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”.

(11) 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).”

(12) The Consortium intends to submit that the reason that article 7(1)(c) does not apply to applications submitted pursuant to section 73 of the 1990 Act is because it is presumed that the original application on which the existing planning permission was granted included “a plan which identifies the land to which the application relates”.

(13) However, in this case, the Council granted planning permission despite the fact that the land to which the planning application relates was not correctly identified at the time the application for the existing planning permission was made.

(14) As the plans submitted with the application for the existing planning permission failed to correctly identify the land to which the application relates and no new plans that correctly identify the land to which the application relates have been submitted with this section 73 application, the requirements of article 7 of the 2015 have not been satisfied, and 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

- (15) 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”.
- (16) 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)
- (17) 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).”
- (18) 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)
- (19) 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).”
- (20) 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.
- (21) 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).”
- (22) 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

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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.

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.

- (23) 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.
- (24) 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.
- (25) 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.
- (26) 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".
- (27) 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.
- (28) 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".
- (29) 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.

- (30) 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.
- (31) 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.
- (32) 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

- (33) For these reasons, the Consortium will be seeking an order to prohibit the Council from considering planning application 20/02453/OUT, unless a decision to grant 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.
- (34) 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.
- (35) 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 to state to the applicant that a location plan should be submitted showing the land necessary for visibility splays included within the land outlined in red. Once such a plan is received, the Council could then proceed with the lawful consideration of the application.
- (36) The Consortium would be pleased to consider any form of alternate dispute resolution that might be proposed by the Council.
- (37) 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).

- (38) 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.
- (39) 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.
- (40) 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.
- (41) 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

**From:** Stephen Reid  
**Sent:** 16 October 2020 15:18  
**To:** 'Daniel Fulton' <[dgf@fewslane.co.uk](mailto:dgf@fewslane.co.uk)>  
**Subject:** Fews LaneOct16th  
**Importance:** High

Dear Fews Lane consortium Ltd

Please see attached letter dated 16<sup>th</sup> October which I am instructed to send to you .

I am not in the office today and therefore will need to advise you separately when a copy is put in the post to you.

Apologies that the letter was not emailed to you earlier in the week.

Any queries please let me know.

**Stephen Reid**  
Senior Planning Lawyer  
3C Shared Services – Legal Practice  
The logo for 3C Shared Services, featuring a large '3' in blue and a large 'C' in green, followed by the text 'Shared Services' in blue.  
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 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)*



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

Practice Ref: SR  
Your Ref:

Date: 16th October 2020

Dear Sirs

**Re: Judicial review pre-action protocol: 20/02453/S73 - The Retreat, Fews Lane, Longstanton**

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 consider the planning permission under ref 20/02453/S73

**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

**Summary of the claim**

3 The prospective claim concerns the Council's decision to consider planning application

4 The claimant considers the applicant, Landbrook Homes Ltd ("Landbrook") to be an interested party and that a copy of your letter has been sent to

5 Para (5) of your letter

5.1 The Council has noted your comment that you view its consideration of planning application 20/02453/S73 is unlawful pursuant to section 327A of the Town and Country Planning Act 1990 (the "1990 Act") because you suggest "...the application for the existing planning permission to

which the current application relates 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 The Council does not accept (i) its consideration of planning application 20/02453/S73 is unlawful pursuant to section 327A of the 1990 Act or (ii) that the application for the existing planning permission to which the current application relates does not comply with the requirements of article 7 of the 2015 Order.

6 Para (6) of your letter

The Council agrees that an application submitted under section 73 of the 1990 Act, if approved, will create a new planning permission that runs alongside the extant planning permission

7 Para (7) of your letter

7.1 Your reference to section 73 of the 1990 Act is noted but it is thought that it would also have been helpful if you had specifically quoted that part of section 73 (2) of the 1990 Act which provides as highlighted in yellow below

73 Determination of applications to develop land without compliance with conditions previously attached.

(1) This section applies, subject to subsection (4), to applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted.

(2) On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and—

(a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and

(b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.

7.2 Whilst your comments as to Stefanou are noted to my mind a critical point is the following reference in Stefanou

".. a local authority considering an application submitted under section 73 the 1990 act must consider the entire scheme being applied for .."

7.3 The Council's position is that this is exactly what the Council intends to do in relation to the s.73 application

7.4 The facts in the case of Stefanou are materially different to those in this case and it is the Council's position that no material considerations have been, or will be, overlooked in this case.

8 Para (10) of your letter

8.1 You quote Article 7 of the 2015 Order and you add emphasis in bold print as to parts of Article 7 but such emphasis does not include the following :

"...( c) except where the application is made pursuant to section 73.. of the 1990 Act

8.2 The Council considers Article 7(1) ( c) is particularly material in this case because the effect of Article 7(1) ( c) is that no new location plan needs to accompany a section 73 application

9 Para (12) of your letter

9.1 In your para numbered (12) you say as follows:

"...The Consortium intends to submit that the reason that article 7(1)(c) does not apply to applications submitted pursuant to section 73 of the 1990 Act is because it is presumed that the original application on which the existing planning permission was granted included "a plan which identifies the land to which the application relates"....."

9.2 May I remind you that when I emailed you on 26<sup>th</sup> August I included at para 17 of that email the following:

"17 I note your comment "...that judicial review proceedings will be issued if this matter is not resolved by Thursday, 27 August 2020.." but I note you do not state what from your perspective would achieve a resolution of this matter and may I add that when I wrote to you on 18<sup>th</sup> August I included the following :

"...3 .Subject to the applicant submitting a red line location plan identical to that submitted under planning reference S/0277/19/FL and/or the applicant confirming the s.73 application is in relation to the same red line location plan submitted under planning reference S/0277/19/FL any claim challenging a planning permission because the red line location plan does not show vehicular visibility splays will be considered to be without merit and will be resisted..."

I raise the above again as I can also now add that on 21<sup>st</sup> August Mr Caddoo emailed the planning case officer and said:

"..In response to your recent email, I would ask the Council to please accept this email as confirmation on behalf of the applicant, Landbrook Homes Ltd , that the S.73 application under 20/02453/s73 is in relation to the same red line location plan submitted under planning reference S/0277/19/FL..."

10 Para (13) of your letter

It is not accepted that the Council granted planning permission despite the fact that the land to which the planning application relates was not correctly identified at the time the application for the existing planning permission was made.

11 Para (14) of your letter

It is not accepted by the Council (i) that the plans submitted with the application for the existing planning permission failed to correctly identify the land to which the application relates or (ii) that the requirements of article 7 of the 2015 have not been satisfied, and accordingly, the Council does not accept that the s.73 application cannot be entertained by the Council pursuant to the provisions of section 327A of the 1990Act.

12 Para (22) of your letter

12.1 The Council was pleased to see that you acknowledge that not every planning application will require visibility splays and that you give as an example that 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.

12.2 The Council has also noted however that 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.

12.3 The Council will strenuously resist any submission that a red line is not correct where it omits to include required visibility splays where such visibility splays are with the existing adopted highway

13 Para (23) of your letter

13.1 At para (23) of your letter 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.”

13.2 The Council's position is that such a 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 23 where, in effect, you suggest the Secretary of State does not have the power to ignore the statutory requirements in any case.

14. Para 24 of your letter

14.1 At para (24) of your letter 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 (albeit in relation to a different site) was shared with you and/or that you take issue with the following numbered paragraphs of that Advice (see section 27 of this letter as below)

Paras numbered 7,8,10,11,12,14,16 and 18

14.2 Rather you argue that the Council's position is at odds with the approved principles of statutory interpretation as outlined earlier in your letter.

14.3 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

15 Para 25 of your letter

At para (25) of your letter 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 26

16 Para 26 of your letter

16.1 At para (26) of your letter 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 by suggesting “... a positive planning conditions may only be applied to land that is within the application site or within the control of the applicant...”

16.2 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

16.3 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

17 Para 27 of your letter

17.1 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...”

17.2 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

17.3 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.

18 Para 29 of your letter

You comment at para (23) of your letter 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.

19 Para 30 of your letter

19.1 At para (30) of your letter 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...."

19.2 I would submit your reasoning is quite simply flawed

20 Para 31 of your letter

20.1 At para (31) of your letter 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...."

20.2 You have however recognized elsewhere 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.

21 Para 32 of your letter

21.1 The highway authority does not share your view that a planning application is invalid if the red line on the location plan does not include visibility splays which are within the existing adopted highway

21.2 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.

22 Para 33 of your letter

Noted, but the Council will strenuously resist any order to prohibit the Council from considering the Application or any application for a quashing order of a planning permission resulting from the Application.

23 Para 34 of your letter.

Noted, but again the Council will seek to resist any application for interim relief if such an avenue were pursued

24 Para 35 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

25 Para 36 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

26 Paras 37-40 of your letter

Noted

27. May I also remind you of a number of paragraphs in the Advice from Charles Streeten of 20 July 2020 (albeit in relation to a different site) 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

27.1 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."

27.2 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."

27.3 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)."

27.4 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.”

27.5 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.”

27.6 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.

27.7 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.”

27.8 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



**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)



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

**Sent:** 26 October 2020 08:15

**To:** Stephen Reid <[Stephen.Reid@3csharedservices.org](mailto: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

**From:** Stephen Reid  
**Sent:** 26 October 2020 08:22  
**To:** 'Daniel Fulton' <[dgf@fewslane.co.uk](mailto:dgf@fewslane.co.uk)>  
**Subject:** FW: Fews LaneOct16th  
**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)

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 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:** Stephen Reid  
**Sent:** 20 October 2020 09:32  
**To:** Daniel Fulton <[dgf@fewslane.co.uk](mailto:dgf@fewslane.co.uk)>

**Subject:** FW: Fews LaneOct16th  
**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  
The logo for 3C Shared Services, featuring the number '3' in blue and 'C' in green, followed by the text 'Shared Services' in blue.  
Telephone: 0781 7730893  
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- *We will regularly update our clients on progress (weekly unless no movement on a particular matter)*

**From:** Stephen Reid  
**Sent:** 16 October 2020 15:18  
**To:** 'Daniel Fulton' <[dgf@fewslane.co.uk](mailto:dgf@fewslane.co.uk)>  
**Subject:** Fews LaneOct16th  
**Importance:** High

Dear Fews Lane consortium Ltd

Please see attached letter dated 16<sup>th</sup> October which I am instructed to send to you .

I am not in the office today and therefore will need to advise you separately when a copy is put in the post to you.

Apologies that the letter was not emailed to you earlier in the week.

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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29 October 2020

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

Dear Sirs

**Re: Planning application 20/02453/S73 – The Retreat, Fews Lane, Longstanton**

- (1) Thank you for your letter dated 16 October 2020.
- (2) Based on the planning history of the site, we feel it is likely that numerous legal errors are likely to be made by the Council in the decision making process for application 20/02453/S73. We would like to bring a number of these historical issues to the Council's attention in hopes that the same mistakes will not be repeated in regards to planning application 20/02453/S73.
- (3) Planning application 20/02453/S73 concerns a proposal for the erection of one additional dwelling in Fews Lane, Longstanton.
- (4) Planning application S/2439/18/FL also sought permission for the erection of one additional dwelling in Fews Lane, Longstanton.
- (5) Planning application S/2439/18/FL application was considered by the Council's planning committee on 13 February 2019. A transcript of the committee meeting has previously been provided to the Council.
- (6) I would draw the Council's attention to the following exchange, which appears on page 12 of the transcript. Dr Jon Finney, highway development engineer, was speaking on behalf of Cambridgeshire County Council, the local highway authority, and Mr John Koch was senior planning officer for the Council.

Cllr H. Williams: *On page 52, I note that it says one of the things that has been raised obviously is the visibility splays—on the third paragraph down. I realise that's the original comments. Is that something that is feasible to condition? Is that something that's still feasible? Obviously things have moved on since the original comments.*

Dr Jon Finney: *My understanding is it's not. Obviously, I'll defer to Mr Koch on this particular issue, but my understanding is, no, it is not, which is why, briefly, I just want to check on the red line drawing. The area, although there is sufficient width within Fews Lane to do the work, it is not under the control of the applicant, so it's not feasible to request that, because obviously, they don't actually control the land. Obviously, Mr Koch will be able to confirm that in planning terms, but I'm not a planning officer.*

Mr John Koch: *Chair, through you, it's absolutely right.*

- (7) I would also draw the Council's attention to the following remark made by the chairman of the committee on page 14:

Cllr J. Batchelor: *Members, we have to be mindful of the fact that any conditioning has to be deliverable by the applicant, he has no control over this piece of road.*

- (8) These two passages can be distilled down into the following four suppositions.

**Supposition A:** It is not possible to attach conditions pertaining to land that is not in the control of the applicant.

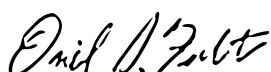
**Supposition B:** Conditions can only be attached to land within the red line boundaries on the location plan.

**Supposition C:** Any conditioning has to be deliverable by the applicant.

**Supposition D:** The applicant has no control over the piece of road required for access to the site.

- (9) Supposition A is taken from direction given to the committee by Dr Jon Finney and confirmed on behalf of the Council by Mr John Koch. Could the Council please confirm if it stands by the legality of this supposition?
- (10) Supposition B is implied by Dr Jon Finney's remark that he needed to consult the "red line drawing". Could the Council please confirm if it stands by the legality of this supposition?
- (11) Supposition C is taken directly from the remarks made to the committee by its chairman, Cllr John Batchelor. Could the Council please confirm if it stands by the legality of these remarks or if these remarks were unlawful misdirection?
- (12) Supposition D is also taken directly from the remarks to the committee by Dr Jon Finney, which were confirmed on behalf of the Council by Mr John Koch, and which were later repeated by the committee's chairman, Cllr John Batchelor. This information was not contained in the application before the committee, so it is unclear as to how this information came to the attention of officers and members. It is also unclear what basis officers or members had for introducing this purported fact into the decision making process. Could the Council please confirm if the statement made by Dr Jon Finney and confirmed by Mr John Koch on behalf of the Council and later repeated by the chairman of the committee was in fact true, and if so, could the Council please say how the officers and/or member came to know this information? Could the Council please confirm if it was a proper use of officers' and the member's positions to introduce this fact into the decision making process during the committee's deliberations? Could the Council also please confirm if the information summarised in supposition D was material or immaterial to the decision in question?

Kind regards



Daniel Fulton  
Director

**AUDIO TRANSCRIPTION 13 02 2019 11:38:32**

**SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL**  
**PLANNING COMMITTEE MEETING**

[Start of recorded material at 11:38:32]

Cllr John Batchelor: - agenda, we're at Longstanton, so the erection of a three-bedroom bungalow with parking for the application, the land is at the rear of The Retreat, Few's Lane, Longstanton. The applicant is Mr and Mrs Caddoo, the recommendation is approval. The committee visited the site yesterday as another departure and the presenting officer is Alison Twyford ... Alison has now turned into Mr John Koch. So, over to you then, John, thank you.

Mr John Koch: Thank you, Chair. Just a few pointers really in respect of the application. First of all members should have already received an additional letter of objection from Mr Fulton, an adjoining occupier, which I think has been sent to you electronically earlier in the week. Also, some concerns have been raised that some of the representations received have not all been viewable on the website and that point has been checked and no issues have been identified in terms of what can be seen and what can't.

Members, it's worth noting the history of this application and, in particular, the inspector's appeal decision of 27<sup>th</sup> September last year. While the application before you today is identical in most respects, members are still required to consider the application on its merits, and it's very important that you do so. Nonetheless, due regard should be paid to the appeal decision as a material consideration. Clearly, the weight that you give to that is a matter for you, as members, but nonetheless, it is a material consideration.

If members are minded to vote against the proposal and refuse the application, they will need to give a clear reasoning for doing so, particularly in the light of the appeal decision. While not explicitly set out in the report before you, officers do confirm that, in their opinion, the residual cumulative impact of vehicle movements arising from the demands of an additional dwelling, when taken alongside the five other dwellings which already benefit from vehicular access off Few's Lane, is not sufficient to warrant a refusal on highway safety grounds.

Similarly, officers consider that access for emergency vehicles does not warrant a refusal, either on grounds of highway safety or, indeed, general public safety. In the event the application is approved, the environmental health officer has requested an informative through the burning of waste or other materials on the site and the need to minimise noise and dust during the construction of the dwelling. Likewise, the local highway authority has requested informatives about works within or affecting the public highway. They're not included in the list of informatives attached to the recommendation, but for the sake of completeness, can be added to the decision notice should the application be approved.

I think, finally for members, it's worth noting that in the right-hand margins to the report, there are some comments. Just to confirm that there's no change in the report, the report is final, it has effectively taken onboard those earlier comments when the report was checked, so they have no materiality on the report itself. Apart from that, I think that's it, thank you.

Cllr John Batchelor: Thank you very much. Sorry, just to go back a bit, I should have mentioned that the vice-chair has had to leave, so I've asked Councillor Milnes to step in. Are we all happy with that?

Yes [All].

Cllr John Batchelor: No objections? Fine. So, any points of clarification, please? No? Then we'll move on. I have a number of speakers, the other thing we should say, I've had a note, and you should all have a copy of it, from County Councillor Peter Hudson, also giving his views on this, so you should all have that before you. I have some speakers on this one. So, would Mr Fulton come forward, please? Good morning, welcome.

Mr Daniel Fulton: I have two points of clarification before I get to my comments. The first is with the legal officer ...

Male Voice: I don't think the speaker is allowed to ask a question about clarification.

Mr Daniel Fulton: That's fine.

Cllr John Batchelor: I'm sorry, you're apparently not allowed to. I would press on, because you've only got the three minutes here.



Mr Daniel Fulton:

The council has been informed that the ownership certificate is incorrect. Section 65 of the Town and Country Planning Act 1990 says that if all owners of the land within the application site have not been notified of the application that the local planning authority 'shall not consider the application'. I don't know if my letter was received, but that's Section 65 from the Town and Country Planning Act. I would thank the planning officer for his comment, for his summary of the application today, but I would note that his comments are [absolutely] different than the officer's report in almost every regard and that my comments today were based on the officer's report.

I'll simply say that we've attempted to engage with planning officers and the local highway authority in regards to this application for a year now and there's been no meaningful engagement at all. We've basically just been ignored. I have no objection to the principle of the development of the site and any development scheme would be fine with me as long as it complies with the policies of the local plan and the national planning policies. As the officer said, the weight for any material consideration is to be determined solely by the decision-maker.

The decision-maker is this planning committee. Contrary to what the officer has stated at the meeting just now, the officer's report gives heavy weight to the appeal decision. However, it doesn't present the full facts in regards to the appeal decision. All I'll briefly say is that the inspector was unaware that Few's Lane was a public footpath. The inspector failed to take account of his own decision from 1989 which found exactly the opposite conclusions on highway safety in exactly the same site. The inspector ignored the fact that the application site boundaries did not comply with the national information requirements and weren't valid.

The planning inspector ignored Policy DP5 of the Local Development Framework that was in-place at the time. Since the appeal was issued, a new policy, H16, on the development of residential gardens, has been approved by this council and the adopted local plan. When outline planning was initially granted for this application in 2013, the local highway authority requested conditions on widening Few's Lane and putting into place pedestrian visibility displays. Those conditions were not attached to subsequent decisions because they were outside the boundaries of the application site.

But the boundaries of the application site did not comply with the national information requirements and were, therefore, invalid. As for access for emergency vehicles, I will only say that the officer's report argues that past failures to follow the policy mean that it would be unreasonable to then start following the policy after previous failures. I find that argument to be completely inexplicable. Thank you for the opportunity to [comment]. I sincerely thank you for hearing me.

Cllr John Batchelor: Just stay there for a moment, they might want some clarification, so if you just stay with us for a bit there. Just to say that we have all had your more detailed notes on this and I'm sure everybody has studied them at length. So, members, any points of clarification you would like? They're perfectly happy, to thank you very much.

Mr Daniel Fulton: Thank you.

Cllr John Batchelor: So, is Mr Caddoo with us this morning? If you would like to come forward, please? Sorry, there's some confusion, you do want to speak, I take it, do you?

Mr Caddoo: Not necessarily, no, but I would appreciate the opportunity.

Cllr John Batchelor: The opportunity is there, if you wish to. That's fine. Thank you, so when you're ready, just push the large button in the middle and you're underway. Thank you.

Mr Caddoo: Okay, thank you very much for this opportunity to speak in front of the committee. It is, indeed, unfortunate that this application finds itself in front of the committee today. It was a duplicate planning application, approved, obviously, upon appeal by the inspectorate back in September 2018. I feel, in my opinion, the only reason this application is here today is the result of the actions of a third party who, throughout this planning process, has continued to raise concerns without any substance.

When all else fails, resorting to making threats of legal action against the district council and even judicial reviews, if things don't go his way. This is a very straightforward application for a three-bedroom bungalow and, as I said before, it should not be here today in front of the committee. I trust the chair and the committee will not be intimidated or feel threatened by the behaviour and actions of this individual. Thank you.

Cllr John Batchelor: Thank you very much. Any points of clarification? Councillor Williams.

Cllr Heather Williams: Thank you. One of the things that is, potentially, a condition is working hours, obviously aware of the history. If ... and this is not saying what will happen, but if the committee was minded to approve, would you be okay or would you challenge if working hour constraints were placed?

Mr Caddoo: I have no objections to that. [Unintelligible 00:11:47] that the local highways authority have obviously had input into this application and previous applications, and there appears to be what's best described as typographical errors in their report. In the application that was approved, the restriction on the vehicle movements was only before 9:30am because of the local school traffic. In the latest report from the local highways, they state that there are no deliveries on the site between the hours and 9:00am and 4:00pm, which is ridiculous, obviously. That means no deliveries during working time, but I have no objections to any reasonable limitation on construction traffic.

Cllr John Batchelor: Okay, thank you very much, I don't think there are any other questions on it? No. Okay, thank you. Is the parish clerk for Longstanton with us?

Ms Libby White: Yes.

Cllr John Batchelor: Come forward and just as a matter of process, I have to ask that you have permission of your parish council to speak on their behalf. Yes? Okay. I didn't get your name, sorry.

Ms Libby White: Yes, it's Libby White.

Cllr John Batchelor: Thank you very much, when you're ready then.

Ms Libby White: I'm the parish clerk to Longstanton Parish Council and I've been asked by council members to convey their reasons for objecting to this planning application. They basically said that the application and a previous application for a similar, almost identical development, their main reasons were, the density and layout of the site, not only due to perceived over-development, but also the effect that these piecemeal applications are having on highway safety, especially of pedestrian users of the public footpath running through Few's Lane.

I understand you have all the comments that have been made by the council previously. Their comments come from comments made by residents and are based on the [little] planning knowledge that they do have. When considering highway safety, councillors are mainly concerned about pedestrians using Fews Lane, which serves nearly 500 homes on the Home Farm development along with dwellings located, here, on Fews Lane. The pedestrian usage for this footpath is considerable, ranging from children walking to school, dog walkers, ramblers, families with small children, commuters going to catch the bus or the guided bus, and those simply walking to the shops.

It's a primary access point from Home Farm to the High Street. The footpath is suitable for one vehicle to travel, and if you're walking on the path at the same time when a vehicle is also moving, the pedestrian has no option but to stand on the verge. This quiet lane, prior to development, had two bungalows on it with access to the garage and the house adjacent to the entrance of the lane. Through various applications, there are now four homes positioned at the end of the lane, along with their garages. This development will make it five. With an average of two vehicles per dwelling, we have increased traffic from four cars to ten, ignoring deliveries and visitors. A comment has been made that the High Street is slow and relatively quiet. This is not the feeling by residents.

Longstanton has a very active speed watch team and a number of residents, both from the High Street and from Mitchcroft Road, and the surrounding streets, expressed concerns about vehicle speed and pedestrian and cycle safety. As a result, approval was granted by the police to operate in four locations relatively close to Fews Lane. I'm unable to confirm too many details, but having spoken to the coordinator, also a parish councillor, he assured me there are regular high volumes of traffic with, typically, 120 to 150 cars per hour in each direction at the locations around Fews Lane with bursts of 170-plus at peak times.

He stated that people trying to get in and out of Fews Lane have created a major issue or have sat down and waited patiently to get out and waited a while to find a break in traffic. He also commented that, in a relatively close proximity, you have a bus stop that stops to collect village college students and the pupils using Fews Lane to get to the bus stop. At school time, there's a lot of pedestrian access for children and,

additionally, many parents in the Willingham end of the village and from the Home Farm development, walk their children to school in the village using both the footpaths across the end of Fews Lane on the High Street and the footpath through Fews Lane itself.

An increase in vehicular traffic in Fews Lane will create a noticeable impact, likely to be at peak times when there's the highest concentrations of vehicles using the High Street, exiting Mitchcroft Road, and the maximum potential of foot traffic on the pavements.

Cllr John Batchelor: Thank you very much. Any points of clarification? Yes? Councillor Handley.

Cllr Bill Handley: Just for clarification, you said something about the increase in traffic, I think you said four to ten, was it, or six to ten? And can you just explain why that's the increase that we would see.

Ms Libby White: I think what I'm trying to say is that there were two bungalows originally down Fews Lane, it's now increased to four, so if you average two vehicles per house, you've increased it to eight, and with this one, you're potentially looking at ten cars for this lane that was only originally for two properties.

Cllr Bill Handley: I understand.

Cllr John Batchelor: Alright, thanks very much, anybody else? Councillor Topping?

Cllr Peter Topping: Just very quickly, is there any other footpath from the large estate for the schoolchildren? I mean is there another footpath that they could use other than this one?

Ms Libby White: They would have to walk on the main roads. It's almost a shortcut and it's, obviously, slightly nicer to walk on a green footpath than next to the traffic.

Cllr John Batchelor: Thank you, anybody else? No? Right, thank you very much. Local member, Councillor Johnson. Good morning.

Cllr Sarah Cheung Johnson: Thank you chair. I'm speaking on behalf of Councillor Alex Malyon who is a fellow member for Longstanton ward and our comments represent both the views of residents who have contacted us, as well as our views on behalf of the residents of Longstanton. Our concerns are primarily on road safety, as highlighted by our parish clerk. For the benefit of the

committee who've not visited the site, Few's Lane is a narrow lane, heavily used by pedestrians, as highlighted, especially children who use it as a cut-through to access the High Street.

The Home Farm development is 500 homes of mainly family homes and they use both Few's Lane itself and the pavement across the top of Few's Lane to access the High Street to catch the school bus to Swavesey Village College as well as our village primary school further down the High Street and to access the closest shop to the estate, which is the Co-op. As a car pulls out of Few's Lane, you need to take your car fully out of the lane, fully onto the pavement and basically onto the High Street itself to get the visibility you need to see around the tall hedges and shrubberies on either side of Few's Lane.

Crossing this footpath, the vehicle can prove dangerous, and we saw this just morning because I accompanied Councillor Heylings on a site visit because she was unable to join the minibus group yesterday. We were there at 8:30am, so many children were going past on scooters, many parents were there with their babies in buggies. And as a parent myself with pre-schoolers, I would just to remind members of the committee that children on scooters go at quite a rate and not always with the due care and attention that we, as parents, would like them to. We're also concerned with the Fire Service access to the site and understand that, because of the restrictive nature of Few's Lane, any fire engine attending an emergency, would only be able to do so by stopping at the High Street and dragging the hose down Few's Lane.

As far as we're aware, the Fire Service was not approached to lodge these concerns for two existing bungalows that were built in 2016 or for this one. And whilst it may be seen that one additional dwelling in, and of itself, can't cause overriding major concerns of road safety and fire safety, we're concerned about the cumulative impact. So, we would like to request that if the committee be minded to approve this, that if they are able to, in any way, attach any conditions to ensure our residents' road safety, that they please do so. Thank you.

Cllr John Batchelor: Thank you very much. Any questions? Yes, Councillor Wright, please.

Cllr Nick Wright: What sort of condition are you looking for?

Cllr Sarah Cheung Johnson: I think you have, in your pack that you've got from Mr Fulton,

some suggestions on things that he would ... but I think our major concerns are with that visibility at the top of the lane. The inspector's appeal says that two cars can pass on Few's Lane, and I really can't see how they can do so safely without going onto that verge and practically into the ditch. So, in order to pass, you do have to reverse into someone's private driveway or someone has to reverse all the way to the top of Few's Lane where that turning point is.

I don't know what's possible to be able to do that safely and to ensure that any verge, which is private land, is not then fenced, because if it were, then that would make the lane basically impossible for two cars to pass. But our main concern is on that visibility of that footpath where Few's Lane meets High Street.

Cllr John Batchelor: Alright, Councillor Williams?

Cllr Heather Williams: Yes, just on the condition that you're touching on, so you would like to see a condition about deliveries for construction? Could you just clarify what it is that you think the residents really would like?

Cllr Sarah Cheung Johnson: Sure. It's around the vehicular access to Few's Lane for vehicles coming in and out of that. If there are ways that the applicant can provide to ensure ... I don't know if there's extra, that you can request this, but mirrors or things to allow vehicles coming in that lane can do so more safely than they currently are, because of the tall hedges and shrubs on either side, which are private land.

Cllr John Batchelor: Thank you. Anyone else? Councillor Cahn, please.

Cllr Martin Cahn: During the site visit, one of the issues that struck us was that there was a considerable problem of parking on the High Street which restricted visibility when you're coming out. I just wondered whether there had been any proposals to control parking on High Street?

Cllr Sarah Cheung Johnson: You touch, obviously, quite a thorny subject, but the parking on the High Street, especially with the Co-op, has increased. We have put yellow lines further down the lane, but unfortunately, they often get ignored. We've obviously got a lot of construction vehicles, both on the A14 and from Northstowe, that are using the Co-op to pick up lunch. So, we are constantly getting very large vehicles parking on the High

Street, just stopping for five minutes to get a sandwich, but obviously, then, causing an impact. So, sometimes when you go there, like we went at quite a quiet time, it can seem like a quiet street, but it doesn't take many vehicles to be there for it to be quite busy.

Cllr John Batchelor: Alright, thank you, and I think that's it. Thank you very much. Mr Finney, I believe, would like to clarify an issue on timing of deliveries, and Mr Finney is the officer from the county council, responsible for everything, isn't it, in transport matters?

Dr Jon Finney Not quite, chair. Firstly, may I apologise to the committee, I'm recovering from a slight chest infection, so I'm slightly short of breath, so I have to occasionally take a deep breath in, so I do apologise for that. In terms of the timings, there is a typo in the report, the timings should be that the only times we permit deliveries are between 9:30am and 3:30pm, we're not trying to restrict them. They are the hours that we would allow deliveries, not outside those hours, so all the deliveries are missing the peak time movements, particularly in [unintelligible 00:24:50] to the children, we recognise that.

So, that is a typo, whether that came from the Highway Authority, if it did, I apologise, but that's it. And if you've got other points of clarification, obviously, there's a lot discussion here about highway safety in relationship to the [turn], do you wish me to talk about that now or do you want to debate?

Cllr John Batchelor: Yes please, because unlike me, you have to understand that you're still maintaining a request for a refusal from the highways. Perhaps you can clarify that position then, please.

Dr Jon Finney: I still start the debate at premise, the Highways Authority dislike incremental development, it's very, very difficult for us to deal with. The main reason is that it's just another house, and I'm not going to deny, that makes it very awkward. On average, across South Cambs, each house generates four and a half vehicle movements per day, where the 'half' comes from, I'm not absolutely certain, but that's the average. In Longstanton, that's probably about where we sit, and that's in a 12-hour period, so you're talking relatively low numbers of increase in motor vehicle movements in and out of Few's Lane.

Under the NPPF, paragraph 109, we are now permitted, or this is now clarified that we can request and refuse on the grounds



of highway safety if that highway safety impact is significant. It is very difficult for the Highway Authority to argue that an increase in 4.5 vehicle movements in a 12-hour period is a significant impact on highway safety. I accept that Fews Lane is used relatively heavily by pedestrians, and particularly as the councillors have pointed out, and so has the objector that you've got 500 houses to the north, however, there are [other] footway connections, so not all 500 houses are going to be using Fews Lane.

It is a much more attractive route, I'm not going to deny that, but again, it comes down to the fact that if we have that average, 4.5, where is the level of significant conflict? There is an increase in conflict, and I'm not going to deny that. As you know, any vehicle in movement can be a conflict. In terms of the access itself, whereas you cannot achieve what we would call a 2-metre x 2-metre pedestrian visibility display, you can achieve a 1.5-metre x 1.5-metre visibility display, which is what is required when you're designing many of the roads and bridges.

So, if we went to appeal on that, that is precisely what any application would say, we can comply with the more onerous guidance, which is the design for roads and bridges, it's more onerous in terms of its design criteria than [unintelligible 00:27:37] streets. I can't comment on the fire and rescue, because obviously, they are a separate body, but I would just briefly say that one of my oldest friends who was actually a fireman until he recently retired, and if you've got 3.7 metres clearance, they will take the vehicle down it. If somebody's life is at risk, they will take the vehicle down it, they will bump a car out of the way to get their vehicle down there. They don't like and they, obviously, try and avoid it, but they will do so if necessary.

As I say, in terms of the application, the Highway Authority has no material reasons to request a refusal, it's that awful situation where the impact is not significant enough for us to do so. I am not denying that the councillors and the objector is correct, there will be an impact, but we cannot justify that as being significant. So, if anybody else has any further questions, please do ask and I will do my best to answer them to enable you, as the committee, to make their decision with as much information available to you as possible. Thank you very much.

Cllr John Batchelor: Thank you very much. I think Councillor Williams has a question for you.

Cllr Heather Williams: Thank you. On page 52, I note that it says one of the things that has been raised obviously is the visibility splays—on the third paragraph down. I realise that's the original comments. Is that something that is feasible to condition? Is that something that's still feasible? Obviously things have moved on since the original comments.

Dr Jon Finney: My understanding is it's not. Obviously, I'll defer to Mr Koch on this particular issue, but my understanding is, no, it is not, which is why, briefly, I just want to check on the red line drawing. The area, although there is sufficient width within Fewes Lane to do the work, it is not under the control of the applicant, so it's not feasible to request that, because obviously, [them], they don't actually control the land. Obviously, Mr Koch will be able to confirm that in planning terms, but I'm not a planning officer.

Mr John Koch: Chair, through you, it's absolutely right.

Cllr John Batchelor: Thank you. Councillor Milnes.

Cllr Brian Milnes: Yes, just to confirm the restrictive hours on page 52 on the second paragraph, can you confirm that you seek to restrict vehicle movements deliveries between 07:30 and 09:30 and 15:30 and 18:00?

Dr Jon Finney?: That is correct, yes.

Cllr John Batchelor: Thank you very much, and Councillor Topping, please.

Cllr Peter Topping: Thank you Mr Chair. Jon, originally, I was trying to work out how many conditions you were seeking as the local Highways Authority to ask this committee to impose, but I think there's a bit of duplication. So, can I clarify that there are four conditions, which are, [using] about the material for the first ten metres, that they've got to get separate permission from the Highways Authority for work and access to Fewes Lane should be widened to a minimum width and there's stuff about private water. Those are the four ones, just for clarity?

Dr Jon Finney: Just for clarity, yes. The first condition is bound material for the full width of the public right of way for a depth of ten metres to prevent material dragging onto the carriageway and

footway. The second point is actually an informative, some developers have read the planning permission, granting permission to work in the adopted public highway, that is not correct. You need our permission, as the Highways Authority, to carry out ... you cannot unreasonably withhold that, we will not do so, but the developers, basically, still need to seek our permission to work in the highway.

In terms of the five metres, Councillor Williams has just asked that question and no, we can't impose that and Mr Koch has agreed, and the fourth one was about private water. Yes, we would like the water to be shed so it doesn't actually drain onto the what we would call the ['metalled'] highway, which is the High Street itself.

Cllr Peter Topping:

So, are there any other conditions that could be imposed with regard particularly to the access from the main road to Fews Lane? Because it seems to me that this rests on the concerns about the safety between pedestrians and vehicles. I was a meeting last night, a parish council meeting, where the stated aims of the local authorities was that there is a sort of hierarchy where pedestrians and cyclists came first and then public transport and, eventually, motorists.

Now, whatever one thinks of that hierarchy, that is the stated aim of the local authorities and I just wonder whether there's anything that we can do to preserve that hierarchy with regard to protecting pedestrians in this respect. Sorry, that was a bit long, but you know what I mean.

Dr Jon Finney?:

In terms of what we call the 'user hierarchy', you are quite correct - pedestrians, cyclists, public service vehicles and finally, private motor vehicle. Clearly, that needs to be balanced, the world couldn't be designed, regretfully, just for pedestrians, much as I like the idea because I am a pedestrian. So, we have to balance that, and, as I say, it's the risks and hazards that we balance here and the relatively low number of motor vehicles using this access as opposed to the relatively high number of pedestrians, yes, there will be a certain level of conflict.

It's a slow-speed environment, even with a ten-metre length of bound material at the access, it's not going to significantly increase motor vehicular speeds. Yes, as a pedestrian, I want to get out of the way of a motor vehicle, I'll be quite honest with you, but again, how often does that occur and is that a

significant inconvenience for a pedestrian? And we have to consider the word ‘significant’, and unfortunately, I don’t believe it is, whereas I am a full supporter of the user hierarchy and in most developments, as you know, we will drive that forward as much as we can.

As I say, it’s this incremental development which is always difficult for us.

Cllr John Batchelor: Thank you very much for that. Members, we have to be mindful of the fact that any conditioning has to be deliverable by the applicant, he has no control over this piece of road. Councillor Fane, please.

Cllr Peter Fane: Chairman, my question has just been dealt with, thank you.

Cllr John Batchelor: Councillor Handley, please.

Cllr Bill Handley: My main question has actually just been answered as well, but I would like to ask one thing. A comment that Councillor Cheung Johnson mentioned about the possibility of mirrors might help improve the visibility for both pedestrians and vehicles.

Dr Jon Finny: The Highway Authority will not permit the installation of mirrors upon land under its control, they are far too risky for us because if it ever got broken or damaged, whose responsibility is it? If, however, the applicant wishes to install mirrors on private ground to improve that visibility, that is a matter for them to consider, not the Highway Authority. We have to look at the visibility to the junction without any artificial aids.

Cllr Bill Handley: I assume that, in this case, that’s not going to be possible then?

Dr Jon Finney: Correct, yes.

Cllr John Batchelor: Okay, thank you very much Mr Finney. Alright, the debate is over, anyone wish to comment? Yes, Councillor Williams, please.

Cllr Heather Williams: Just reading the conditions on page 58, I think we’ve heard a lot about the pedestrians and I’m wondering whether ... and I’m looking at the planning officers here, if there’s a possibility that we change the no deliveries [within] outside of the hours of 9:30am to 3:30pm. And whether it would be possible to create, during the construction phase, some sort of management plan

with the pedestrians such as somebody there stopping traffic, but simply for the construction phase.

I think it's regrettable, my view is that one extra dwelling is not significant harm and it's regrettable for many reasons. I can't see a material planning consideration for refusal, but I would like to see a bit more robustness in the conditions in relation to delivery and the control during the construction process.

Cllr John Batchelor: Thank you very much.

Mr John Koch?: Chair, I think it's a matter for members, at the end of the day, if you wish to, as I say, go with a condition in respect of delivery times. I think the applicant has muted that's not necessarily unreasonable, I think that's within your gift to do so, if you so desire that that's necessary. Obviously, bearing in mind that the inspector did not consider it necessary, but that's still within your gift, absolutely. In terms of a construction management plan, again, the inspector dismissed that a condition put forward by this council previously.

We did actually have a costs application on the appeal in respect of that particular ... the reason for refusal previously, actually, rather than a proposed condition. But it is within your gift and if you feel it can be justified, then it's a matter for you, as members, to take that view. The inspector's view, it's always difficult with a single dwelling because the construction times, the construction process, is often quite limited.

However, Mr Finney has advised you that whilst the Highway Authority don't object, there clearly will be some conflicts and there will obviously be conflicts during the construction phase. So, if you feel that it is justified, then I don't think [unintelligible 00:38:53] to say that you shouldn't impose such a condition.

Cllr John Batchelor: Thank you. Councillor Milnes.

Cllr Brian Milnes: I would just like to refer to [both] that issue, I'm not sure such a condition would be practical or implementable. I absolutely hear the concern of the mixture of pedestrians, cyclists and then construction traffic on top. Clearly, the restrictions that already are in-place, they're going to remove that when the majority of children are walking there. And the other thing that I note is that, despite reservations about the accuracy of these 4.5 vehicle movements out onto the High Street, when the parish

council have counted something like 160, it is a very small, additional number. Those are the figures on which we have to base our decision.

Cllr John Batchelor: Thank you very much for that. Councillor Handley, please.

Cllr Bill Handley: Dr [Finney] said earlier that an incremental increase, a small increase, is going to make a difference, a tiny difference, such that we can't attach significance to the increased risk. I feel the same kind of frustration. Am I right though in saying, and I'm asking the question of Mr Koch here, that we can't make any allowance for that. We might make a different decision, if we're increasing from two to six, we might say that's a significant increase, but the fact that we're going from five to six is a completely different thing.

What I'm asking, Mr Koch is, we can't take any consideration about decisions that have been taken before, the applicants made reference to mistakes that were made before. We can't make any reference to that or take that into consideration, we just look at this as a standalone application, correct?

Mr John Koch: I'm not quite sure what the question there was, chairman.

Cllr Bill Handley: I didn't put it well, would you like me to re-phrase it?

Cllr John Batchelor: Yes, re-phrase it.

Cllr Bill Handley: I'm just asking, the applicant said that there were mistakes made in previous applications, such that the thing about the increased risk, in his opinion, was not taken properly into account. The point I'm making is that we can't take any consideration of any decisions taken previously. We are looking at this as a standalone application and we only look at the increase of the one property, the risk of the extra volume of traffic from one property.

Mr John Koch: Yes, I think that's generally correct. First of all, you look at the application in its merits, you look at it fresh today, we've mentioned earlier about what's known as 'residual cumulative traffic impacts'. And the view has been made, well, it isn't, it isn't necessarily one additional one because, over time, a number of additional dwellings have been added to the traffic flows up and down Fews Lane as they've been built.

The situation you have today is that you have, I think, five

dwellings which are accessed off the lane, this will be an additional one. It's the view of officers, whichever way you look at it, that, whilst, yes, there will be some conflict, because an additional level of traffic must create something, it's not significant enough to warrant a refusal, and that's our position as officers.

Cllr John Batchelor: Councillor Williams.

Cllr Heather Williams: Thank you. I just want to clarify for certain this condition, because I appreciate what Councillor Milnes was saying, I think we're all agreed on the hours, but the actual wording in the condition on page 58, I believe, is 'no power-operated machinery shall operate on-site before 8:00am'. And apologies if I've missed it, but I can't see the deliveries as a condition at a moment.

Male Voice: Page 52.

Cllr Heather Williams: 52?

Male Voice: Yes, the second paragraph.

Cllr Heather Williams: And, as members, can we please choose for that to be added in?

Cllr John Batchelor: Alright, well, members, let's decide whether or not we want to do that then, so what timings are we suggesting?

Cllr Heather Williams: My suggestion, that there are no deliveries outside the hours of 09:30 to 15:30.

Cllr John Batchelor: Okay, so you're suggesting a condition which is the same as the one on page 52, Highways would require no deliveries between 07:30am and 09:30am, 3:30pm and 6:00pm.

Female Voice: Good.

Cllr John Batchelor: Do you want to speak to that, Councillor Rippeth?

Cllr Judith Rippeth: I don't know if I can come in at this point? But, the 3:30pm seems like it would coincide with schoolchildren walking back, would we not want to make it a shorter time? 3:00pm? Because we're trying to avoid conflict with pedestrians, aren't we? Just out of interest.

Cllr John Batchelor: This was the original Highways Authority request, so it has

some standing. I'm not sure what time the schools actually turn out, do you?

Cllr Judith Rippeth: Well, my son's school is 3:20pm, 3:15pm/3:20pm, but that's not in Longstanton.

Cllr John Batchelor: Councillor Williams.

Cllr Heather Williams: I would be supportive of reducing them and I don't believe we can ask it from the Highways point of view, whether they would be comfortable if the hours were reduced to 2:30pm or 3:00pm.

Cllr John Batchelor: Mr Finney.

Dr Jon Finney: I think as the councillor has pointed out, I think the key issue is, what time does the primary school at Longstanton actually finish, because obviously that's the key issue, because it did vary across the county. We'd normally take 3:30pm as being average, but if it is at 3:00pm, then I think maybe we should be reducing that time, because it is that primary conflict. So I think perhaps we could define that and then put that in as part of the condition, this way forward.

Cllr John Batchelor: Okay, let's do that then. So, members, is this a condition that you want? So, would you please vote, those in favour of this condition. Anyone against? Abstentions? Right, well I'll be an abstention as well, so that's a condition then, 7:30am to 9:30am and 3:00pm to 6:00pm, no delivery times, yes? Okay, we've done that. Now we have to decide on the application itself, so the recommendation before you is approval, can I have all those in favour of approval, please?

Male Voice: Sorry, subject to the amended condition.

Cllr John Batchelor: Yes, subject to the amended condition. Right, all vote please. That's unanimous. Okay, thank you very much, with the condition, so that's an approval with the additional condition. Thank you very much.

[End of recorded material at 12:25:15]



**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, 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

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tel. 01954 789237

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**From:** Stephen Reid  
**Sent:** 16 November 2020 07:39  
**To:** 'Daniel Fulton' <[dgf@fewslane.co.uk](mailto: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@3csharingservices.org](mailto:stephen.reid@3csharingservices.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:** 13 November 2020 08:25

**To:** Stephen Reid <[Stephen.Reid@3csharingservices.org](mailto: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, Fewes 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:** 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, Fewes Lane, Longstanton

Dear Mr Kelly,

Thank you for your email.

A bit of background on application 20/02453/S73...

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.

Given that a considerable amount of public resources would be consumed in judicial review proceedings, we would be willing to allow the planning committee to make a determination of this application, but given that officers have apparently not grappled with any of the substantive issues raised by this application, there is no reason for the Consortium to allow this application to remain under consideration if it is destined for a delegated decision by officers.

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.

Kind regards,

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Director

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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@scams.gov.uk](mailto:stephen.kelly@scams.gov.uk)  
<https://www.scams.gov.uk/planning/>  
<https://www.cambridge.gov.uk/planning>

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**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,

Could I please ask you to confirm if planning application 20/02453/S73, which concerns development at The Retreat, Fews Lane, Longstanton, Cambridge CB24 3DP, will be determined by a planning officer or by the Council's planning committee?

Kind regards,

Daniel Fulton  
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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

Dear Fews Lane Consortium Ltd

I write further to your email of 2<sup>nd</sup> December to Mr Kelly in connection with the above. In your email you make a number of statements upon which I seek clarification.

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.
2. You state that “...officers have failed to correctly ascertain the factual circumstances of the application...” but do not elaborate on which facts you feel officers have not considered.
3. I note your statement that you are prepared for the planning committee to determine the application despite your argument that the application is invalid and is being considered unlawfully.
4. Can you indicate what exactly you consider to be “...the considerable questions of law and planning judgment ...” that you say are raised by this application.

I am also conscious that when you emailed me on 2th October you said, “...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....”

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

**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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Kind regards,

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Yours sincerely

**Stephen Kelly** | Joint Director of Planning and Economic Development

<image001.jpg>

t: 07711 918993 | e: [stephen.kelly@scams.gov.uk](mailto:stephen.kelly@scams.gov.uk)  
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**Subject:** Delegation of planning application 20/02453/S73 - The Retreat, Fews Lane, Longstanton

Dear Mr Kelly,

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Kind regards,

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**From:** Stephen Reid  
**Sent:** 29 December 2020 11:46  
**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:** FW: planning application 20/02453/S73 - The Retreat, Fews Lane, Longstanton  
**Importance:** High

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 23rd 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 :

“....3. I note your statement that you are prepared for the planning committee to determine the application despite your argument that the application is invalid and is being considered unlawfully.....”

5. As to your comment as to “...It is an extraordinarily\_wasteful use of limited public resources..” I am also mindful that whilst you have said “...the Consortium will issue judicial review proceedings before a decision is made...” you have also said in a letter dated 3rd September the following :

“...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



Telephone: 0781 7730893  
Email: [stephen.reid@3csharedservices.org](mailto:stephen.reid@3csharedservices.org)

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**Sent:** 23 December 2020 11:28

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**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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Dear Fews Lane Consortium Ltd



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Yours sincerely

**Stephen Reid**  
Senior Planning Lawyer  
3C Shared Services – Legal Practice



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

**Subject:** Re: Delegation of planning application 20/02453/S73 - The Retreat, Fewes Lane, Longstanton

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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.

Given that a considerable amount of public resources would be consumed in judicial review proceedings, we would be willing to allow the planning committee to make a determination of this application, but given that officers have apparently not grappled with any of the substantive issues raised by this application, there is no reason for the Consortium to allow this application to remain under consideration if it is destined for a delegated decision by officers.

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.

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 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@scams.gov.uk](mailto:stephen.kelly@scams.gov.uk)  
<https://www.scams.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,

Could I please ask you to confirm if planning application 20/02453/S73, which concerns development at The Retreat, Fews Lane, Longstanton, Cambridge CB24 3DP, will be determined by a planning officer or by the Council's planning committee?

Kind regards,

Daniel Fulton  
Director

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

tel. 01954 789237

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18<sup>th</sup> Dec 2020

**Report to:** South Cambridgeshire District  
Council Planning Committee

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

---

## 20/02453/S73– The Retreat, Fews 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:** This application has been referred to the Committee at the request of the Parish Council. .

**Presenting officer:** Lewis Tomlinson

### 1.0 Executive Summary

1.1 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. .

## 2.0 Relevant planning history

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

### 7. 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

## 3.0 Planning policies

### 3.1 National Guidance

National Planning Policy Framework 2019 (NPPF)

Planning Practice Guidance

National Design Guide 2019

### 3.2 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

- 3.3 **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

## 4.0 Consultation

### **Cambridgeshire County Council (Highways Development Control)**

- 4.1 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**

- 4.2 This variation application does not relate to contaminated land and therefore I have no comments to make.

### **Drainage**

- 4.3 Drainage has no comments to this variation

#### **Environmental Health Officer**

- 4.4 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**

- 4.5 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.
- 4.5 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.

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

- 5.1 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].)

## 6.0 The site and its surroundings

- 6.1 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.. Fews Lane is not an adopted highway and currently serves as an access for the two other recently constructed dwellings in addition to the site. A footpath (Public Right of Way) linking the Home Farm residential development to the south and west of Fews Lane with High Street also passes down Fews Lane. The site lies within the designated village framework and is otherwise unconstrained.

## 7.0 The proposal

- 7.1 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.

- 7.2 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.”*

- 7.3 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*

- 7.4 The application is accompanied by the following supporting information:

- Traffic Management Plan prepared SLR dated December 2019

- 7.5 The applicant claims that the submitted Traffic Management Plan arises from lessons learnt during the construction in 2018 of the two existing new homes on the site. The TPM 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, mean that space for parking within the site is limited. . Accordingly,, the Traffic Management Plan indicates provision has been made for contractor parking at Digital Park in Station Road, Longstanton (noting that Fews 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 means that the terms of part ii of the original planning condition cannot be met and it is this departure from the original condition that has prompted this application.

## **8.0 Planning assessment**

- 8.1 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]

- 8.2 The principle of development of a dwelling 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 the 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.
- 8.3 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 the PROW alongside the unadopted Fews Lane and the users of the unadopted road that comprises Fews Lane.

### **Highway Safety – Traffic Management Plan**

#### Traffic Management Plan Assessment

- 8.4 The construction of any development gives rise to additional movements – including contractor vans and larger delivery vehicles (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 may 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, including an indication of the swept path and a turning area within the site – reflecting its restricted size.
- 8.5 The Council has consulted the Local Highway Authority as the consultee for matters regarding highway safety. The Local Highway Authority, having expressed concerns that 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: Fews 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.*
- 8.6 Officers have noted and agree with this advice from the Local Highway Authority, having specific regard to the relatively short length of Fews Lane, vehicle movements along it are considered 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 – 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 TMP commits to keep clear access to the two existing homes along Fews Lane throughout the construction phase and to maintain the right of way clear of obstructions for pedestrians.

- 8.7 The third-party representations suggest that alongside concerns about the validity of the application the TMP does not properly address the matter of visibility at the site entrance onto High Street and that delivery vehicles may need to reverse down 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. Moreover, 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 is accordingly considered to be satisfactorily addressed by the TMP. 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.

#### Bound material condition

- 8.8 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.

#### Pedestrian visibility splays

- 8.9 There have 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 is considered to be satisfactory – noting that the application of County Council polices 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. It is considered that the pedestrian visibility splays of 1.5m x 1.5m could be achieved to the back of the footway when existing Few’s Lane.

- 8.10 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.

#### Pre-action protocol letters

- 8.11 Over at least the last six months or more there has been an amount of letters and emails between the Council and Fews Lane Consortium Limited (“FLCL”) as to the red line shown on the Location Plan for planning reference S/0277/19/FL .
- 8.12 On 13th November 2020 FLCL 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, 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....”
- 8.13 Proceedings have not been issued and the Council is waiting to hear from FLCL as to its intentions as to any proceedings. The Council does not accept 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.
- 8.14 An extensive bundle of correspondence between FLCL and the Council (together with an index ) is attached to this report
- 8.15 An update will be provided when this item is presented to the Planning Committee in January .

## **9.0 Planning balance and conclusion**

Taking into consideration the above points, including the site history, third party representations and the advice from the Local Highway Authority, Planning Officers consider that the proposed rewording of condition is 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

## **10.0 Recommendation**

Officers recommend that the Planning Committee Approve the application subject to the following conditions and informative:

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**ADVANCED**

# 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

- [Write to your local MP or councillor \(http://www.writetothem.com\)](http://www.writetothem.com)
- [Petition your local MP, council \(https://www.voiceregister.com\)](https://www.voiceregister.com)

### Find out more

- [Make Freedom of Information request \(http://www.whatdotheyknow.com/select\)](http://www.whatdotheyknow.com/select)

### Notify council of problem

- [Get it fixed : report it to council \(http://www.fixmystreet.com\)](http://www.fixmystreet.com)

### 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

Cement Works, Haslingfield Road, 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, Few's 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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30 April 2021

South Cambridgeshire District Council  
South Cambridgeshire Hall  
Cambourne Business Park  
Cambourne  
Cambridge CB23 6EA

Dear Sir/Madam

**Judicial review pre-action protocol letter: Planning applications 20/02453/S73 & 20/05101/FUL**

- (1) South Cambridgeshire District Council (the “**Council**”), South Cambridgeshire Hall, Cambourne Business Park, Cambourne, Cambridge CB23 6EA, is the prospective defendant in a claim for judicial review. In light of the Council’s current remote working arrangements, this correspondence has been sent by email only.
- (2) The prospective claimant is the Fews Lane Consortium Ltd (the “**Consortium**”), The Elms, Fews Lane, Longstanton, Cambridge CB24 3DP. The Consortium represents the interests of local residents in regards to issues of planning and development.
- (3) The Council has decided to entertain two purported applications for planning permission (references 20/02453/S73 and 20/05101/FUL) despite the applications’ noncompliance with the statutory requirements pursuant to the Town and Country Planning Act 1990 (the “**1990 Act**”) and the Town and Country Planning (Development Management Procedure) (England) Order 2015 (the “**2015 Order**”). The Council’s decisions to entertain purported planning applications 20/02453/S73 and 20/05101/FUL are to be challenged through judicial review.
- (4) The prospective claimant considers the applicant for planning permission, Landbrook Homes Ltd, to be an interested party. A copy of this letter has been sent to Landbrook Homes Ltd at 36a Church Street, Willingham, Cambridge CB24 5HT.
- (5) Article 7(1) of the 2015 Order provides that:
  - “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”.

- (6) The application form for planning permission specifies that a location plan must be submitted that complies with the following instructions:

“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) 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) In *Maximus Networks Ltd v Secretary of State for Communities and Local Government* [2018] EWHC 1933 (Admin), [2019] PTSR 312, Dove J states at [24] that:

“Section 327A of the 1990 Act makes clear that the local planning authority has no discretion to waive or overlook failures to comply with the requirements provided by the legislation for the proper formulation of an application. By implication it makes clear that if a local planning authority were to do so that would amount to an error of law justifying the court’s intervention.”

- (9) The land outlined in red on the location plan submitted with purported application 20/05101/FUL does not include all the land necessary to carry out the proposed development. Specifically, the land outlined in red fails to include the land required for visibility splays.

- (10) Purported application 20/02453/S73 has been submitted pursuant to section 73 of the 1990 Act. Pursuant to article 7(1)(c)(i) of the 2015 Order, no location is required for when submitting an application under section 73, presumably because the application for underlying planning permission was valid when it was determined.

- (11) Purported application 20/02453/S73 seeks permission for the same development approved in permission S/0277/19/FL but subject to different conditions. In the case of purported application S/0277/19/FL, the area outlined in red on the location plan, which is relied upon also by purported application 20/02453/S73, failed to include all the land necessary to carry out the proposed development. Specifically, the land outlined in red failed to include the land required for visibility splays.

- (12) Unless or until the purported applications comply with the statutory requirements, under section 327A of the 1990 Act, the prospective defendant has no jurisdiction to entertain, much less approve, either application.

- (13) Accordingly, the prospective claimant intends to seek an order prohibiting the prospective defendant from continuing to entertain the purported planning applications in question and an order that the prospective defendant pay the prospective claimant’s costs in the claim.

- (14) Section 31 of the Senior Courts Act 1981 provides that:

“(3C) When considering whether to grant leave to make an application for judicial review, the High Court—

- (a) may of its own motion consider whether the outcome for the applicant would have been substantially different if the conduct complained of had not occurred, and
- (b) must consider that question if the defendant asks it to do so.

(3D) If, on considering that question, it appears to the High Court to be highly likely that the outcome for the applicant would not have been substantially different, the court must refuse to grant leave.”

(15) In the case of the two purported applications in question, the decision of the prospective defendant to unlawfully entertain the purported applications despite their noncompliance with the statutory requirements is highly likely to directly prejudice the interests of the claimant.

(16) In *Mouchell Superannuation Fund Trustees v Oxfordshire County Council* [1992] 1 PLR 97 (at 105), Glidewell LJ states that:

“the combined effect of section 14(1) and (2) of the 1947 Act [which is equivalent to section 29(1) and 30(1) of the 1971 Act] was, and the combined effect of the successor provisions in the current legislation is, 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.”<sup>1</sup>

(17) Ordinarily when granting planning permission with vehicular access to an adopted public highway, a positive planning condition is typically necessary to requiring ongoing maintenance for the visibility splays in question.

(18) However, in this case, the prospective defendant has decided to entertain purported planning applications where that land necessary for visibility splays has been specifically excluded from the application site in contravention of the requirements of the 2015 Order. This effectively prevents a condition for adequate visibility splays from being attached to any permission granted.

(19) 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).

(20) 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.

(21) Should it become necessary to issue a claim, a complete 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, in any event, will be served with the claim form. At present, the Consortium’s total assets are less than £25, and the Consortium’s total cash on hand is less than £25.

(22) The Consortium’s address for the response and service of documents is: Fews Lane Consortium Ltd, The Elms, Fews Lane, Longstanton, Cambridge CB24 3DP. The Consortium will accept a pre-action protocol response by email to <dgf@fewslane.co.uk>.

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<sup>1</sup> The successor provisions in the 1990 Act are sections 70(1) and 72(1).

(23) In the event that legal proceedings become necessary in regards to this prospective claim, please note that the Few's Lane Consortium Ltd does NOT accept service by email.

(24) The prospective claimant would like to propose 14 May, which is 14 days from today, as the date for any pre-action protocol response.

Kind regards,

Daniel Fulton  
Director



Fews Lane Consortium Limited

**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

Date: 14<sup>th</sup> May 2021

Dear Sirs

**Proposed claim for judicial review in relation to prospective planning permission 20/02453/s73 and 20/05101/FUL**

We write in relation to your pre-action protocol letter dated 30th April 2021 in which you indicate your intention to challenge by way of judicial review the Council's decision to entertain planning applications under ref 20/02453/s73 and 20/05101/FUL

**The Prospective Claimant**

- 1 The Prospective Claimant would be Fews Lane Consortium Limited.

**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 The first matter that I would draw to your attention is that the application under reference 20/05101/FUL is now the subject of an appeal (for non-determination) and whilst the Council is waiting to be advised as to the allocation of an Appeal Inspector the Council's position is that this application is no longer within its jurisdiction as Local Planning

Authority and therefore it is intended that this response letter will only address matters in relation to the application under planning reference 20/02453/s73.

4. You will recall that Few's Lane Consortium Limited had previously issued a Pre Action Protocol letter dated 27th July 2020 in relation to the application under 20/02453/s73 and where a response was sent dated 18th August 2020 and therefore in the first part of this response I intend to again address a number of points as set out in that response.
5. In the second part of this response I intend to then seek to address matters which have arisen post 18th August where I believe them to be relevant.
6. However, before moving to the first part of the response there is an initial point that I would like to highlight namely that the Council received an email from Mr Caddoo dated 21st August 2020 in which he asked the Council to accept the email as "...confirmation on behalf of the applicant, Landbrook Homes Ltd, that the S.73 application under 20/02453/s73 is in relation to the same red line location plan submitted under planning reference S/0277/19/FL..."

### **FIRST PART**

7. Your claim challenges a section 73 application under planning reference 20/02453/s73 (the "s.73 Application") in relation to the grant of planning permission for the erection of 2 dwellings with parking.
8. The principles on which a claim for judicial review of a decision to grant planning permission may be brought have been shortly stated by Lord Justice Lindblom in *Mansell v Tonbridge and Malling BC* [2017] EWCA Civ 1314 at paragraph 42. We do not set out these fundamental principles in full in this letter but they are referred to where appropriate below.
9. While your letter of 30th April 2021 makes various assertions by way of complaint about the omission of visibility splays it is felt the Consortium has failed to substantiate how an alleged error of law will arise.
10. The Council has noted earlier complaints on a similar matter in relation to a planning application for development in Waterbeach. In response to that complaint, the Council sought advice from Counsel and responded to the consortium. The Council's advice from Charles Streeton of Counsel on that matter was provided to the Consortium.
11. Turning to the points made at paragraph 10 of your letter dated 27th July 2020, and which is set out below for ease of reference.  

“(10) The question of whether or not visibility splays are required in order for the proposed development to be acceptable in planning terms is a matter of planning judgment that is within the purview of the decision maker. However, pursuant to section 327A of the 1990 Act, the Council does not have the discretion to decide that it will entertain an application that fails to comply with a requirement as to the form or content of any document which accompanies the application...”
12. The basis of the Consortium's proposed claim is an allegation that any decision to grant planning permission for the Development pursuant to the S.73 Application 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**"). It appears alleged that the land outlined in red on the location plan for

S/0277/19/FL 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.

- 13 In relation to a similar point raised by the Consortium albeit on a completely different site and in a completely different location Charles Streeten of FTB has advised that for the reasons set out further below he was 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 breach of the requirements of the 2015 Order.
  - b Provided land on which any operational development will take place is within the red line boundary, and the remaining land is adopted highway, Mr Streeten is of the view that the requirements of the 2015 Order will be complied with and it is not necessary to include in the red line boundary all of the land required as visibility splay where such land is part of the adopted highway.
  - c Even if he is wrong in relation to the above, the prospect of a claim for judicial review succeeding in the case where he was asked to advise was low. Given the similarities of that matter and the current complaint, the Council is of a similar opinion in relation to the S.73 Application not least having regard to the confirmation referred to at paragraph numbered 6 above.

14 **LAW**

**The Statutory Scheme**

14.1 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.

14.2 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.”

14.3 A local planning authority should not entertain an application for planning permission unless it complies with the requirements of the 2015 Order but please note the comments under paragraphs numbered 12 and 22 below.

15 **Non-Compliance with the DMOP**

15.1 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.

## 16 Article 7 of the 2015 Order

16.1 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.

16.2 The section of the application form to which the Consortium referred to in the letter of 27th July 2020 reads as follows:

“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 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.”

18 In interpreting these words Mr Streeten has advised that 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

19 The particular point at issue is the location of any visibility splays required to ensure the access to the Development is safe. In relation to the visibility splays for the junction of Fews Lane and High Street Longstanton all the land outside the red line boundary covered by those visibility splays is within the existing adopted highway. The Highway Authority officers have confirmed their view that no other land is required to secure the necessary visibility for this development.

20 The issue, therefore, is whether planning permission for the Development can be granted pursuant to the S.73 Application, notwithstanding that an area included within the visibility splay is on adopted highway outside the red line boundary. The view of the Council is that it can:

20.1 Firstly, the text of both the application form and the guidance refers to “all land necessary to carry out the proposed development”. Mr Streeten’s has expressed a view that 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 may need to be shown within the red line



boundary. Where, however, 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.

- 20.2 Secondly, Mr Streeten has advised that an over literal reading of the application form and PPG would create absurd results. As I have pointed out to you in the past, both refer to car parking and open areas around buildings. If, however, 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 which is not being provided or required. 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.
- 21 Mr Streeten, 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), advised in relation to the other matter 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.
- 22 Applying these principles, Mr Streeten expressed an opinion as set out below (in the case where he was asked to advise) :
- 22.1 *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.*
- 22.2 Provided that the red line boundary includes 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.
- 23 In the other case, Mr Streeten advised that even if he is wrong, he is of the view that the prospects of bringing a successful claim for judicial review in that case would be low and he 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. His view was that he felt 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. The same point is considered by the Council to apply here.
- 24 In any event, even if (which is denied) there was some error in the validation process, the Court has a discretion whether or not to quash a grant of planning permission, depending on a variety of factors, including:
- the consequences of non-compliance,
  - the nature of the failure,
  - the identity of the applicant for relief,

- the lapse of time ,and
- the effect on other parties

25 The Consortium have (in the other case where Mr Streeten has advised) suggested that:

“... 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....”

It is the Council’s view that this suggestion as to extent of the red line boundaries is not the relevant legal test as to whether an application is valid

## **SECOND PART**

- 26 Officers are of the view that the change sought under the s.73 Application makes no material changes to the actual development proposed and the purpose of the new condition is solely to make detailed provision for construction traffic.
- 27 Officers are mindful that an approval of a s.73 application results in a new planning permission and not an amendment of the original. Further, whilst the guidance quoted in paragraph 21 of the Officer’s Report presented to Planning Committee in [January 2021] is correct to limit attention to conditions that are the subject of the application, officers are also mindful of the need to consider whether any material change of policy or other circumstances which might require a re-assessment of other conditions or, indeed, the development as a whole, see R v Stefanou v Westminster City Council & Ano [2107] EWHC 908 (Admin) at [90].
- 28 Officers are mindful of the complaints which refer to the inadequacies of the site plan supplied with the original application – but it is submitted it is too late to challenge the validity of the permission pursuant to that original application. Fewes Lane Consortium Limited at least at one stage sought to suggest a plan is required by reference to the article 7(1)(b) – which requires particulars to be included as specified in the application form but as a simple matter of statutory interpretation the Council’s position is that cannot include a plan which is dealt with separately and expressly by (c).
- 29 It follows that officers do not consider it is necessary to request a further plan, as indicated in paragraph 3 of the response dated 18th August 2020 but please note reference to confirmation under paragraph numbered 6 above
- 30 Whilst there has been some debate as to whether pedestrian splays need to be 1.5m x 1.5m or 2m x 2m, it is the Council’s position that 1.5m is the correct figure (see points 14 and 15 and 21.3 of a Cambridgeshire County Council letter dated 12th December 2018 but apparently dealing with the same junction – Fewes Lane and High Street,
- 31 There is a further point namely whether all the land required for such splays is on highway land. There is an email from Jon Finney dated 6th January 2021 in which he confirms that it is all on highway land. This is consistent with earlier comments to the same end, and the later email from Jon Finney on the same date confirms this position even though the relevant land is not shown on the highways register. The land forms part of a grass verge.
- 32 Please correct me if I am wrong but isn’t it the contention of Fewes Lane Consortium Limited that such land should still have been shown as included within the application site by reference to the statutory provision for operational development on highway land. If that is the contention, then it is the Council’s position that any such contention misses

the point as there is no operational development proposed for these visibility splay areas and as it is highway land its use as visibility splays involves no change of use.

- 33 In his letter Mr Streeten dated 20th July 2020 covered this particular point at paragraph 16(c). With respect to subsequent arguments made by Few's Lane Consortium (e.g. as developed at paragraphs 33-34 of your letter of 8th September 2020 ) it is the Council's position that these ignore the distinction between operational development on highway land and change of use.
- 34 Given, as noted above, there is no express requirement for a site location plan (identifying the land to which section 73 application relates ) and the proposed change of one condition does not relate to visibility splays, it is the Council's position that any challenge in relation to the s.73 Application is one which is unlikely to succeed
- 35 Notwithstanding what Few's Lane say as to the apparent stringent terms of section 327A of the 1990 Act, the Court will still have a discretion as to whether or not to quash. Mr Streeten deals with this in his Advice (at paragraph 7), and I would add to the case references made by Mr Streeten reference to the case of Maximus Networks Ltd v SSCLG and Southwark LBC and LH Hammersmith and Fulham [2018] EWHC 1933 (Admin) at [24-26]
- 36 Whilst in paragraph (18) of your letter dated 30th April 2021 you have said as set out below it is the Council's position that when a fresh report is taken to Planning Committee as to the s.73 Application it will address the extent of the red line for the purposes of the s.73 Application and the need for any visibility splays and where they are located if outside of the red line
- “(18) However, in this case, the prospective defendant has decided to entertain purported planning applications where that land necessary for visibility splays has been specifically excluded from the application site in contravention of the requirements of the 2015 Order. This effectively prevents a condition for adequate visibility splays from being attached to any permission granted...”
- 37 Officers are satisfied that the Application under reference S/0277/19/FL and the associated committee report considered representations concerning the adequacy of the access to the plot, proposed improvements including the widening of the Few's Lane access, visibility splays and the extent of the red line. Few's Lane Consortium are asked to acknowledge that the permission granted pursuant to that application can no longer be judicially challenged.
- 38 Notwithstanding that the s.73 Application seeks to amend only the Traffic Management Plan, the officer report to be presented to Planning Committee before determination of the S.73 Application will consider the representations of Few's Lane Consortium Limited , the necessity and reasonableness of requiring upgrades to Few's Lane through the S73 Application including the provision of visibility splays.
- 39 Officers of the Council are satisfied that as the local Planning Authority it does have jurisdiction to entertain the S73 Application and for all of the reasons set out or referred to above, the Council will resist any application for judicial review.
- 40 The Council has noted that the Consortium has not indicated if it would prefer to resolve the dispute without the need for legal proceedings or whether the Consortium would agree to participate in an appropriate form of ADR. In the other case referred to above, the Consortium were sent a copy of the advice from Mr Streeten and the Consortium were invited to take their own advice from counsel so that any points in such an advice could be put to Mr Streeten for him to review. It is not clear if such advice has been

sought by the Consortium, notwithstanding the Council's invitation and in these circumstances the Council reserves the right to bring to the Court's attention the invitation which was made in such regard . The Council is also mindful that in a conversation on 20<sup>th</sup> April 2021 Mr Fulton said that he had received written "legal advice" and which "legal advice" he said he would share it with Council the same day but a copy of that "legal advice" has never been forthcoming.

- 41 Finally, the Council agrees that the applicant for the S.73 Application , Landbrook Homes Ltd , would be an interested party in respect of any claim.

Yours faithfully

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

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# Agenda Item 6



26 May 2021

**Report to:** South Cambridgeshire District  
Council Planning Committee

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

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## **20/03802/FUL – Orchard Park (Development parcel L2, Topper Street, Orchard Park, Cambridge, Cambridgeshire)**

Proposal: Residential development of 75 dwellings along with access, car parking, landscaping and all associated infrastructure

Applicant: Cambridge Investment Partnership

Key material considerations:

- Principle of Development
- Impact on the Character and Appearance of the Area
- Residential Amenity
- Refuse Arrangements
- Highways Safety
- Car and Cycle Parking
- Drainage
- Trees and Ecology
- Energy & Sustainability
- Affordable Housing
- Public Art
- S106 Contributions
- Third Party Representations

Date of Member site visit: N/A

Is it a Departure Application?: No

Decision due by: 11<sup>th</sup> December 2020 (Extension of Time agreed until Friday 18<sup>th</sup> June 2021).

Application brought to Committee because: In the interests of transparency given the application is made by Cambridge Investment Partnership (a partnership between Hill Residential and Cambridge City Council) and planning officers form part of a shared planning service with Cambridge City Council and South Cambridgeshire District Councils

Presenting officer: Ganesh Gnanamoorthy

## **Executive Summary**

1. The proposal provides affordable housing that meets an identified need in the local area.
2. The proposal would result in significant improvements to the accessibility, functionality and attractiveness of the existing open space to the west of the site.
3. The proposal is of a high quality design and would respond well to the local vernacular.
4. The Local Planning Authority has received a number of objections against the proposed development on a range of issues including density, parking, and wildlife impacts.
5. Despite the objections raised by neighbouring properties, Officers are of the view that the current scheme is acceptable, and the reasons for reaching this conclusion are set out in this report.

## **Relevant planning history**

6. - Application to the District Council (reference S/1294/16/FL) for the erection of a mixed-use residential led development comprising 63 1xbedroom units on the upper floors including 40% affordable housing along with 67 car parking spaces cycle parking and associated hard and soft landscaping to include a Gym (Use Class D2) and two commercial units (Flexible use Class comprising Use Classes A1(non food retail) A2 and D1) at ground floor. Permission granted 05 September 2017.  
  
- Application to the District Council (reference S/1294/16/COND9) for the discharge of condition 9 attached to S/1294/16/FUL with respect to a Reptile Mitigation Strategy. Condition discharged 31 July 2020.

## **Planning policies**

### **National Guidance**

7. Relevant Local Plan. National Planning Policy Framework 2019 (NPPF)  
Planning Practice Guidance  
National Design Guide 2019

### **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/5 Provision of New Jobs and Homes  
S/6 The Development Strategy to 2031  
SS/1 Orchard Park  
H/8 Housing Density  
H/9 Housing Mix

H/10 Affordable Housing  
 H/12 Residential Space Standards  
 CC/1 Mitigation and Adaptation to Climate Change  
 CC/2 Renewable and Low Carbon Energy Generation  
 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/4 Biodiversity  
 NH/6 Green Infrastructure  
 SC/2 Health Impact Assessment  
 SC/4 Meeting Community Needs  
 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/9 Education Facilities  
 TI/10 Broadband

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

9. Open Space in New Developments SPD - Adopted January 2009  
 Orchard Park Design Guidance SPD – Adopted 2011  
 Trees & Development Sites SPD - Adopted January 2009  
 Landscape in New Developments SPD - Adopted March 2010  
 Biodiversity SPD - Adopted July 2009  
 District Design Guide SPD - Adopted March 2010  
 Affordable Housing SPD  
 Health Impact Assessment SPD – Adopted 2011  
 Public Art SPD

### **Consultation**

10. **Orchard Park Community Council** – The Community Council reached a resolution of ‘no recommendation’ on the application. Concerns have been raised with the proposal in relation to the development being too dense and the limited provision of car parking.
11. **County Council Highways Officer** – No objection has been raised to the proposal subject to the imposition of conditions and informatives.
12. **County Council Transport Assessment Team** – The Officer initially issued a holding objection as further information and clarification was sought. Additional

information was provided and the objection has been removed subject to the imposition of conditions and a financial payment to be secured by S106 legal agreement.

13. **County Council Growth Officer** – The Officer has confirmed that the proposal would likely have a low child yield, and not provide an unacceptable level of strain or harm on existing early years, primary or secondary schools. The Officer has therefore recommended that no contributions are required.
14. **Urban Design Officer** - The Officer has been heavily involved in pre-application discussions on this site, and has had an integral part to play in the evolution of the design of the scheme. The Officer has confirmed that the scheme is acceptable from an urban design perspective subject to the imposition of a condition securing final details of materials.
15. **Landscape Officer** – The consultee has recognised that there is scope for improvements to the hard and soft landscape detailing although notes that these can be secured by way of condition.
16. **Tree Officer** – The Officer had originally requested additional information be submitted in order to fully assess the proposal. This was subsequently submitted and the Officer raises no objections to the proposal subject to a condition.
17. **Drainage Officer** – The Drainage Officer has confirmed that there are no objections to the proposal subject to the imposition of a condition.
18. **Sustainability Officer** – The Officer is in support of the application and has recommended conditions be imposed in relation to carbon reduction and water efficiency.
19. **Waste Services** – This department have been consulted on the proposal and additional information has been requested. This was subsequently provided and the Officer has removed their objection.
20. **Environmental Health Officer** – The Officer has confirmed that the information is now acceptable subject to the imposition of conditions.
21. **Contaminated Land Officer** – No objection raised subject to the imposition of a condition relating to unexpected contamination being found.
22. **Air Quality Officer** – No objection subject to the imposition of conditions.
23. **Environment Agency** – Responded to say they have no comment on the proposal.
24. **Local Lead Flood Authority** – The Officer had initially issued a holding objection and requested further information to be provided. This information was subsequently provided and the Officer has removed their objection.
25. **Affordable Housing Officer** – No objections raised to the proposal, and notes that the provision is in excess of the policy requirement. The Officer also recognises that the clustering requirement is not met.
26. **Ecology Officer** – No objection raised subject to condition and possible S106 contribution.



- 27. **Public Art Officer** – The Officer has commented on the proposal and has raised concerns regarding the budget proposed for public art. This is discussed in more detail later in this report.
- 28. **S106 Officer** – Various contributions sought to mitigate the impact of the development. These are detailed later in the report.
- 29. **NHS** – S106 contribution of £28,400 towards Arbury Road Surgery requested.
- 30. **Fire and Rescue Officer** – No objection/objection to a condition securing a fire hydrant scheme.
- 31. **Anglian Water** – No objection raised
- 32. **Highways England** – A holding objection was originally issued. Additional information has subsequently been provided and Highways England have removed their objection.
- 33. **Natural England** – No objection raised.
- 34. **Designing Out Crime Officer** – No objection raised.

## Representations from members of the public

- 35. The Local Planning Authority has received letters of representation from 14 properties. The comments can be found on the Council's website. In summary the following concerns have been raised:

| Concern                              |
|--------------------------------------|
| Overdevelopment – too tall and dense |
| Not enough parking                   |
| Impact upon trees                    |
| Poor design                          |
| Impact on wildlife                   |
| Overheating for new development      |
| More people = more litter and noise  |

- 36. Camcycle have commented on the proposal. They have objected on the grounds of the cycle provision failing to be sufficiently convenient and accessible for all.
- 37. The above representations are a summary of the comments that have been received. Full details of the representations can be inspected on the application file.

## The site and its surroundings

- 38. The application site is an 'L' shaped plot of land that takes in a square development parcel known as L2, and an open space to its west. The site occupies approximately

0.43 hectares in area.

39. The site forms part of the wider Orchard Park development and sits to the north and east edges of Orchard Park and on the northern aspect of Topper Street. Directly opposite the site, on the southern aspect of Topper Street is the Marmalade Lane development. To the north of the site, a green strip separates the site from the A14, which runs in an east-west direction. The site is sited within the Orchard Park Parish, is not located in a conservation area, and there are no listed buildings within close proximity of the site.

## **The proposal**

40. The application proposes residential development of 75 dwellings along with access, car parking, landscaping and all associated infrastructure.
41. The proposal comprises three buildings. The first of these is an irregularly shaped 5-storey flat roofed block with a north to south orientation running centrally from the southern end of the site. This building would comprise 43 apartments (comprising 16x studio flats, 17x 1 bedroom and 10x 2 bedroom units). Access to this building is from the central element of the frontage from Topper Street. These dwellings are proposed to be for market housing. This report will refer to this block as Block A.
42. The second building is a 5-storey rectangular flat roofed block which runs east to west along the northern edge of the site. This block would house 28 apartments (comprising 5x studio flats, 18x 1 bedroom and 5x 2 bedroom units). Access to this building would be via a deck access from the north with apartments benefitting from south facing balconies. These are proposed to be for affordable housing (social rent). This report will refer to this block as Block B.
43. The third building is a row of coach house-style properties which would run along the eastern edge of the site, parallel to Block A, and allowing for an access road between the two. This would contain four properties (4x 1bed) which would be set above parking provision below. Two of these are proposed for market housing with the other two for social rent. This report will refer to this block as Block C.
44. The proposal includes the provision of cycle parking, car parking, EV charge points and 2x car club parking spaces. Underground refuse and recycling bins are proposed.
45. The proposal includes making improvements to the open space to the west of the site. A community vegetable garden is proposed along with other hard and soft landscape proposals including tree planting.
46. The scheme has been through an extensive pre-application process with officers.
47. The proposal has been amended since submission to take on board comments and concerns from officers, statutory consultees as well as feedback received from public representations. The changes include the provision of an additional car club parking space (two in total) and providing further information around drainage, parking provision and accident data.

## Planning assessment

### *Principle of Development*

48. The principle of residential development on this site has already been established by virtue of the previously granted permission for a mixed-use development including 63 dwellings. This permission expired on 1<sup>st</sup> May 2021. Though granted planning permission under a different local plan, there are no material changes in circumstance either under the new local plan and associated policies / guidance or in physical context that are considered to make a residential use on this site unacceptable.
49. Policy S/2 aims to ensure that new housing meets local need and is provided in sustainable locations. There is an identified demand for studio flats, 1 and 2 bedroom properties (more than 80% of the requirement) in the locality, and the proposal would provide a total of 75 new studio, 1 and 2 bed homes across the site. The immediate area is typified, broadly, by other residential development, and is in close proximity of both retail outlets and transport links into the City centre.
50. Policy S/3 echoes the National Planning Policy Framework (NPPF) with an explicit presumption in favour of sustainable development. The NPPF describes sustainable development as having economic, social and environmental benefits.
51. Policy S/5 relates to the provision of new homes and jobs within the District. The policy outlines a target for 19,500 new homes by the end of the plan period of 2031. The proposals would provide a valuable 75 homes towards this target.
52. Policy SS/1 relates specifically to Orchard Park. The policy identifies Orchard Park as being allocated for the provision of 900 homes in a housing-led mixed-use development. Additional housing is not ruled out by the policy. The Orchard Park Design Guide SPD (2011) also supports the principle of parcel L2 being used for residential development.
53. With the above in mind, it is considered that the proposal complies with policies S/2, S/3, S/5 and SS/1 and is acceptable in principle, subject to the other material considerations, to be discussed in subsequent paragraphs of this report, being found acceptable. Further, the previously approved scheme demonstrates the acceptability of the principle of residential development at this site.

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

54. Policy HQ/1 relates specifically to Design Principles and is paramount to this section of the assessment. There is also a Design Guide SPD specifically related to Orchard Park. The SPD is high level in the framing of its advice, of a general nature and not specific to all possible building layouts.
55. The previously approved scheme consented a flat roofed 4-storey horseshoe shaped building with the three built edges fronting Topper Street, the open space to the west and the A14. The current application proposes three separate buildings – one running east to west to the north of the site, one running centrally up from the south of site, and the third with a north-south orientation to the east of the site.
56. It is noted that the Design Guide SPD recommends maximum heights for development on the site, and this suggests 12m for built form to the south, north and west of the site, and 6m – 9m to the east.

57. The proposal exceeds these guidelines with Blocks A and B having a height of 15.8m, and Block C having a height of 9.30m.

#### Building A

58. During pre-application discussions, Officers explored with the applicants a range of possibilities for building heights, as well as widths and siting. The Urban Design Officer and the Case Officer reached the conclusion that the introduction of a 5-storey element facing Topper street would be acceptable, as long as the building has a more narrow frontage, when compared with the potentially wide 12m expanse indicatively shown in the SPD, and previously approved. The SPD states a desire to have a building on the site that terminated views from the west. A 12m high building here would not satisfactorily achieve this as the flats on Engledow Drive are 13.80m in height and so a slightly taller structure on the site is considered to achieve this termination more effectively. A sheer 5-storey elevation fronting Topper Street of the building width proposed would have been considered too great, and so further articulation to the Block A façade has been introduced through a central recess. This recess results in views of the block appearing as two separate slender structures.
59. The building itself has been set back from the front of the site to further reduce its dominance. The proposal seeks the use of contrasting brickwork in these elements to provide a greater distinction and separation between the two elements either side of the recess. The block would have a long elevation facing the open space and another onto the new access road – the former of these is something the SPD explicitly seeks to encourage.
60. The western elevation would have cantilevered balconies facing towards the open space, and these would provide a level of natural surveillance to the open space. The balconies were originally proposed to be post and beam construction although given the long views of the western elevation it was considered that a higher quality appearance should be achieved.
61. As a result of pre-application discussions, the north-western edge of the building has been chamfered and this plays two roles. The first is in relation to the neighbouring amenity of the proposed Block B and this will be discussed in a later section of this report. The other is to provide a greater relationship and permeability with both the open space to the west and Block B. This chamfer helps to provide a reduced sense of overbearing on the open space to the west than would be achieved with a rectangular footprint.

#### Block B

62. As with Block A, this block would be 5-storeys in height, and would have a broadly rectangular footprint sitting perpendicular to Block A. Block B would have a more slender profile and would be sited at the rear of the site. The building would have similarities to Block A, with respect to fenestration patterns and rhythms, and this helps to provide a harmonious relationship between the two buildings. This is particularly important given the different tenures proposed for each block and ensuring that the development appears tenure blind.
63. Block B would have deck access to the north (facing the A14) and this allows for the Topper Street facing element to appear architecturally more pleasing. The use of deck access also allows for the units within it to be dual aspect.

64. As with Block A, the form of this building is fairly simple, and as such, the quality of the materials and detailing is considered crucial to the success of this building. The Urban Design Officer has recommended that a condition be attached to any permission granted in order to secure full details of all external materials, including the construction of sample panels, to ensure that a high quality finished is achieved. This features in the list of conditions accompanying this report.

#### Block C

65. Block C is a part 2, part 3 storey block of coach-house style properties, with maisonettes sitting above parking spaces. This short terrace of properties would have two single storey flats above the parking court in the centre of the block with two storey flats at either end. Space for parking 10 cars underneath would be provided. A strong gable end would address Topper Street whilst this terrace and the eastern flank of Block A would make the access road feel more like a conventional street with properties on either side.
66. The height of this block has been carefully considered and is considered to provide a legible and appropriate transition from Block A to the 3-storey properties on Flack End to the east.
67. Discussions between the applicants and officers have explored whether the eastern flank of this block could have some windows inserted to break up the run of brickwork. However, the insertion of windows that open fully would provide amenity concerns (discussed later in this report) whilst non-opening windows would present issues around cleaning and maintenance.

#### External spaces

68. The proposal includes several distinct approaches to the external spaces. These include parking areas, a communal vegetable growing area, tree and hedge planting, and areas of lawn. Some of these spaces have been altered during the life of the application to account for concerns raised by the Urban Design Officer.
69. The proposal includes two landscape options – one including improvements to the open space to the west of parcel L2, and the other without. The former would need consent from the Community Council and this is why two options have been proposed. The Community Council have confirmed that they are amenable to the open space being improved and discussions to secure a license (which are separate to the planning process) are ongoing between the applicant and the Community Council.
70. The Council's Landscape Officer has commented on the proposal and is broadly in support of the scheme. He has commented that there is scope for improvement in both schemes to hard and soft landscaping, although these could be secured by way of condition. These feature in the list of conditions accompanying this report.
71. Although there is some conflict with the Orchard Park design Guide SPD with respect to the height of buildings proposed, the careful approach to the design intent – including looking at widths of buildings in sensitive areas, set back positions of buildings and neighbouring amenity impacts, ensure that the proposal is considered to respect the spirit of the SPD. The proposal is considered acceptable in design terms, both in terms of its own appearance, and how it relates to the context of the wider area. The proposal complies with policy HQ/1 and SC/8 of the Local Plan.

### *Residential amenity*

72. There are two things to consider in this section – one being the impact on the amenity of existing neighbouring occupiers, and the other being the amenity for future occupiers of the proposed dwellings. These will be addressed in turn.

#### Impact on amenity of existing neighbouring occupiers

73. The nearest properties to the proposed buildings are located on Engledow Drive to the west, Marmalade Lane to the south, and Flack End to the east. This report will look at the amenity impact of the proposal on these properties.

#### Daylight, sunlight and overshadowing:

74. The applicant has submitted a Daylight, Sunlight and Overshadowing Assessment document as part of their submission. This document demonstrates that the vast majority of existing windows would pass the relevant daylight receipt tests, with the few that fail doing so by small margins. With regard to sunlight all windows that the BRE guidance suggest requires testing passed, and with regard to overshadowing one property in Flack End fails marginally whilst all others pass.
75. Officers have reviewed this document, scrutinising the methodology used as well as the conclusions reached. Officers consider that, whilst there are some infringements on daylight and overshadowing, these are to a very minor level, and as such, the proposal has an overall acceptable impact with regard to daylight, sunlight, and overshadowing.

#### Loss of privacy and overlooking:

76. The properties in the flat block on Engledow Drive would be sited seven metres or more from the nearest window of Block B, and the relationship between nearest windows would be greater. Both Block B and the apartment block on Engledow Drive have an east-west axis, and there is a minor stagger between the buildings which results in only oblique views. The orientation of the blocks proposed, along with the blank eastern flank wall of the Engledow Drive block means that all views would be acute, and are not considered to be harmful. The distance of 13 metres (minimum) from Block B to properties in Flack End means that overlooking and privacy outcomes are considered acceptable here also again because the orientation of the blocks is similar and views would be oblique. With regard to the properties at 68-78 Topper Street, these are sited across a road, and this relationship between properties is a very common one. Indeed, the siting of Block A – pulled back from the front of the site – further ensures that this relationship is a respectful one. It is acknowledged that there are balconies proposed, although the orientations of buildings and the distances and angles with neighbouring windows mean that these are considered acceptable.
77. With regard to Block C, the eastern facing wall is closest to properties 1-11 Flack End. This has been designed as a largely blank façade in order to prevent any issues of overlooking and loss of privacy. There is one window to the northern end of this wall and this would be far enough away from 1-11 Flack End so as to provide comfort to Officers that no overlooking or loss of privacy would be caused. Some rooflights are proposed in the pitched roof of Block C – facing eastward, although views from these would be skyward and do not cause any concern.

#### Sense of enclosure:

78. The proposal has been designed to allow for some 'breathing space' between existing

and proposed buildings, and to ensure that there is no undue sense of enclosure caused. Block A has been chamfered to the north-west in order to provide greater separation from the flat block on Engledow Drive whilst also creating a better relationship with Block B (this will be discussed later in this report) and the open space to the west.

Construction impacts:

79. It is acknowledged that there would be some short term impacts as a result of the construction process. These include dust and noise generation, as well as comings and goings from deliveries and collection to and from the site. The District Council's Environmental Health Officer has been consulted on the proposal and conditions are recommended to ensure that the proposal mitigates its impact, whilst others are controlled by Environmental Health legislation.
80. Any impact of this ilk would likely be short term only.
81. With the above in mind, the proposal is considered to be acceptable with respect to neighbouring amenity, and complies with policies HQ/1, SC/2, SC/8 and SC10 of the Local Plan.

#### Amenity for future occupiers of the site

82. Internal space standards are nationally prescribed to ensure that all new residential accommodation is of an appropriate size for future occupiers. Policy H/12 echoes these. The scheme proposes a number of studio, one and two bedroom flats. The proposed dwellings all meet, or exceed, the standards prescribed. The previously approved scheme provided all 1-bedroom apartments and this proposal is considered to allow for a more diverse range of future occupiers.
83. All properties would have access to their own private amenity area – and these will take the form of terraces or balconies (typically of 5sqm in size). The proposal also includes a communal vegetable growing area whilst there is an open space at the western part of the application site.
84. The development provides 71 of the 75 units compliant with Part M4 (2) of the Building regulations, indicating that these units are accessible for wheelchair users. This provision far exceeds the 5% requirement set out in policy H/9 which would equate to 4 dwellings needing to meet this standard. A condition is recommended to ensure that these standards are delivered.
85. Block B would be sited parallel to the A14 and the design of this building has taken into account the likely noise impacts of this. Block B has an internalised deck access to the north, which means that habitable rooms facing north have a walkway and two separate windows between them and the effects of the A14 noise.
86. The Police have been consulted on this application and have raised no concerns. Indeed, they have expressed an expectation for a 'Gold' standard application – indicating a high level of security being achieved.
87. As well as future occupants, the wider community would benefit from the proposed landscape improvements to the open space to the western part of the site.
88. It is considered that the proposal provides a high standard of accommodation, which would result in a good living environment for future occupiers of the dwellings, and a

safe environment for users of the wider site. The proposal complies with policies S/5, SC/2, H/12 and HQ/1

#### *Refuse Arrangements*

89. The proposed refuse storage arrangements are shown to be of a logical layout, with underground bins being located between blocks A and B. The applicant has provided calculations of storage provision and these demonstrate that the level of provision is in accordance with the required levels. The applicant has provided detailed tracking plans demonstrating how refuse vehicles would be able to negotiate the development safely when collecting refuse and recycling.
90. The Council's Refuse and Recycling Officer has been consulted on the application and additional information was sought regarding tracking of a larger refuse vehicle than that demonstrated in the transport Statement. This has been provided and the Waste Team have removed their objection. In addition, Officers are content that the tracking information provided is accurate and shows that the larger vehicle can acceptably negotiate the development in a safe manner.
91. Officers consider that the proposal is compliant in this respect with Local Plan policy HQ/1.

#### *Highway Safety and parking*

92. The application has been supported by a number of plans demonstrating how the development would be accessed and egressed. This includes swept path analysis which show safe use by refuse trucks is possible within the site. A Transport assessment has also been submitted. The Highway Authority was consulted as part of the application and, having reviewed the submitted documents, has confirmed that the proposal is acceptable subject to the imposition of a number of conditions – these are detailed at the end of this report.
93. The County Council's Transport Assessment Team has also assessed the proposal, and requested additional accident data. Upon receipt, the Officer has confirmed that the proposal is acceptable subject to a financial contribution of £75,000 towards cycle route improvements on Histon Road between Kings Hedges Road and Hazelwood Close, a Travel Plan to be secured by way of condition and the proposed car club spaces also being provided.

#### *Cycle parking:*

94. Policy TI/3 of the adopted Local Plan states that car and cycle parking should be provided through a design-led approach in accordance with the indicative figures in figure 12. The table indicates that 1 cycle parking space should be provided per bedroom – with a total of 116 bedrooms within the development. 116 internal cycle spaces are proposed for residents, with an additional 8 visitor spaces provided externally.
95. Officers are content with the quantum of cycle storage provision as this complies with the policy, although it is noted that Camcycle have raised an objection regarding the use of double stackers – alleging that they are not as secure, accessible and convenient for users as Sheffield Stands.



96. On this point, Officers consider that the cycle parking provision is acceptable as the provision for occupiers of the flats will be internal to the building and so therefore is secure; the provision will be easily accessible to users and although the upper tiers of double stackers will not be appropriate for all users (i.e. those who struggle to lift bikes or users of cargo bikes) this does not make them inaccessible in the round; and the location of the cycle stores within blocks A and B makes them convenient for use. Occupiers of block C would have a short walk to blocks A and B for their cycle storage which is also considered acceptable.

#### Car parking

97. Policy TI/3 of the adopted Local Plan states that car parking should be provided through a design-led approach in accordance with the indicative figures in figure 12. The table indicates that two car parking spaces should be provided for each residential dwelling. The applicants have provided a detailed Car Parking Note which sets out, with reference to Census Data and DCLG Government research, that the demand for car parking spaces from the site is likely to be 48 spaces, an average of 0.63 cars per flat, which is accepted by the County Transport Team.
98. The proposal includes a total of 26 car parking spaces for the 75 dwellings, two of which are to be car club spaces. This leaves 24 spaces for privately owned cars associated with the 75 dwellings – a ratio of 0.32. Six of the spaces would have active EV charging points with the remainder having passive provision. The applicants' transport consultants indicate that car club spaces reduce parking demand by a ratio of 12 - 1 and thus the car club spaces are proposed to provide for half of the anticipated demand (48 spaces) arising from the proposal.
99. The submitted Transport Assessment and associated Car Parking Note set out the rationale for the level of car parking provision proposed on site. The report concludes that the likely car generation of the development can be wholly accommodated on site. In addition, parking beat surveys have been provided which demonstrate that there are approximately 49 spaces available within a 200 metre radius of the development overnight – in accordance with the methodology set out in the industry-wide used Lambeth methodology.
100. In this instance, it is considered that a reduction in car parking spaces is acceptable, partly because of the highly sustainable location of the site (in close proximity to bus routes in to the City as well as local shopping offerings), as well as the level of cycle parking which is proposed. Orchard Park occupies a location close to the jurisdiction boundary with Cambridge City Council, and is among the most sustainable locations within the District.
101. It is noted that the proposal provides a lower level of parking spaces per dwelling (0.32 spaces per dwelling) than the previously approved scheme on this site (0.9) and the more recently approved scheme at Plot COM4 which provided 0.5 spaces per dwelling. It is, however, noted that the previously approved scheme on this site did not contain a car club space whilst the COM4 application allowed for one such space, and the Officer report for that scheme considered that a car club space could help to displace as many as 15 cars from the development. This view is supported by national research documents.
102. Officers have requested that two car club spaces should be provided, rather than the one initially proposed and the reason for this is twofold. Firstly, the presence of two

such vehicles makes it more likely that there would be a car available for use when needed for residents, and would therefore be likely to make residents feel more confident that they do not require a private vehicle. Secondly, and as a result of the first point, it is likely that the presence of such vehicles would minimise reliance on private car ownership – further helping to promote sustainable transport methods. Residents will have membership to the car club paid for by the developer for the first two years of the development which should encourage use, and reliance on, this sustainable transport method and this is to be secured within the S106.

103. The Transport Statement submitted states that each car club space would mitigate 12 cars on site – either through people selling their own car or not purchasing a new one.
104. Officers consider that there is likely to be a degree of tolerance that needs to be applied to the anticipated car club impact ratio of 12:1. If the number of mitigated cars is fewer than 12 per space, this would result in some overspill onto the roads, although the parking beat surveys carried out by the applicant and submitted with the application demonstrate that there is sufficient capacity on street to accommodate any such eventuality.
105. It is noted that much of the concern raised during the consultation phase related to the use of local streets for parking by people who work nearby, and this is perhaps an accurate depiction of the daytime use of on-street parking in the immediate vicinity. However, the widely accepted and used methodology for undertaking parking surveys (the Lambeth methodology) works on the theory that the greatest parking impact from a development would be overnight when the vast majority of people are likely to be at home. This is the approach adopted for the parking beat surveys carried out and this is considered appropriate and correct. In addition, the last year has seen greater numbers of people working from home and this has resulted in fewer people travelling to a place of work.
106. As touched upon briefly in the preceding paragraph, consideration must also be given to the attempts of this proposal to encourage sustainable transport methods, which is supported by policy TI/2. The proposed car club spaces, along with a large number of cycle parking spaces and financial contribution towards the improvements of cycle routes are key features in trying to encourage more sustainable transport methods. The proposal includes 6 active EV car charging points, with all other spaces having passive provision to allow for future connectivity as and when demand exists.
107. Based on the above, it is considered that the proposal would not have a negative impact on highway safety, and would promote sustainable transport methods whilst providing sufficient car and cycle parking spaces to accommodate the likely demand with minimal increase in parking on the surrounding streets, and would accord with policies TI/2 and TI/3 of the adopted Local Plan. It is considered prudent to attach a condition to seek a parking allocation strategy to ensure that the parking is fairly distributed between the tenures.

#### *Drainage*

108. The application site falls predominantly within Flood Zone 1, which indicates a low risk of flooding. A very small part of the site, to the south-eastern corner, falls within zone 2, which also indicates relatively low risk of flooding. The application has been designed with drainage considerations in mind, and a flood risk and drainage strategy report was submitted with the application.
109. The report confirms that surface water will be discharged to the existing drainage

network within Topper Street. An amount of attenuation storage will be provided, whilst other SUDS features are proposed including permeable paving, green roofs and soakaways.

110. The Drainage Team have been consulted on the proposal and have confirmed that the proposal is acceptable subject to condition.

111. The Local Lead Flood Authority had originally raised holding objections, as they sought further information from the applicant. This information has been provided and the Officer has removed their objection, with conditions recommended.

112. Officers consider that the proposal is compliant with the paragraph 163 of the National Planning Policy Framework (2019) and policies CC/7, CC/8 and CC/9 of the adopted Local Plan.

### *Ecology*

113. The applicant has submitted a Preliminary Ecology Appraisal, Biodiversity Report, and Reptile Survey and Mitigation Report as part of their submission.
114. The Council's Ecology Officer has been consulted on the application and has not raised any objections. He notes that the reptiles that were previously on the site have been relocated in accordance with a discharged condition pertaining to the previous consent.
115. The Ecology Officer raises no objection to the proposal subject to conditions requesting a Landscape and Ecological Management Plan (LEMP) and biodiversity net gain
116. Overall, the proposal is considered to comply with policy NH/4 of the adopted Local Plan, as well as paragraphs 174 and 175 of the NPPF and is acceptable.

### *Trees*

117. The application was accompanied by a tree survey and arboricultural impact assessment.
118. The Arboricultural Impact Assessment identifies that, across the whole site, there are no trees. Two street trees are proposed for removal, and this was considered acceptable, and approved, in the previously approved application. The proposal involves the planting of 37 new trees – 30 within the L2 parcel and a further 7 in the open space to the west.
119. The Council's Tree Officer has been consulted on the proposal and has raised no objection to the proposal subject to the imposition of conditions securing an Arboricultural Method Statement and a Tree Protection Plan. This would allow for Officers to ensure the development is carried out in an acceptable way.
120. Officers consider the application to be in accordance with policy NH/4 of the adopted Local Plan and is therefore acceptable.

### *Energy & Sustainability*

121. A number of energy efficient and sustainability measures form part of the proposed

design across the whole site. These include, but are not limited to:

122.
  - PV panels
  - Sustainable Urban Drainage
  - Community growing garden
  - EV charge points
  - Gas-free development
  - Air source heat pumps
  - Green roofs
  - Water efficiency measures
  - High insulation standards and airtight envelope
  - Communal Air Source Heat Pumps
123. The application has been supported by an energy assessment and a sustainability statement.
124. The Energy report demonstrates that the approach chosen would comply with policies CC/1, CC/2, CC/3, CC/4, CC/6 and CC/7 of the Local Plan and would significantly exceed the 19% reduction in carbon dioxide emissions target within Part L of Building Regulations – providing a 68% reduction.
125. The Council's Sustainability Officer has been consulted on the proposal and has raised no objections subject to the imposition of conditions relating to water efficiency measures and compliance with the approved renewable/low carbon energy technologies details set out within the Energy Assessment.
126. Officers have no reason to consider the information submitted differently to the Sustainability Officer and have recommended the suggested conditions accordingly.
127. Officers consider that the proposal would comply with policies CC/1, CC/2, CC/3, CC/4, CC/6 and CC/7 of the Local Plan.

#### *Affordable Housing*

128. Policy H/10 seeks to ensure that new major residential development provides a minimum of 40% affordable housing, to help meet the identified local need.
129. The application provides 40% affordable housing which would be for social rented purposes.
130. The District Council's Affordable Housing Officer has been consulted and raises no objections to the proposal. The Officer notes that the housing mix is acceptable although does state that the clustering size with regard to Block B is exceeded whilst there would also be more than 12 dwellings per single stair core.
131. The Officer acknowledges that the cluster size exceeds the recommended number of up to 25 (Block B has 28 dwellings) and also exceeds the recommended 12 dwellings per stair/lift core.
132. The only solution to making the cluster size smaller would be to have Blocks A and B more evenly distributed between affordable and market housing, although there are logistical and practical issues with such an arrangement in terms of management arrangements of communal areas. Such an arrangement can occur, but often results in service charges being payable by all residents to facilitate a management company carrying out management and maintenance of communal area. This is not an ideal

situation given that the affordable housing proposed is for social rented purposes.

133. Officers are of the view that the management benefits of slightly larger clusters of affordable housing units than recommended in the SPD outweigh any concerns regarding the effect of large affordable clusters and community integration, particularly as the blocks would not be distinguishable between those that are affordable and those that are market. The affordable housing provision can be secured by a S106 agreement and the proposal is considered to comply with policy H/10 and could not be reasonably refused as set against the guidelines for clustering in the Affordable Housing SPD.

#### *Public Art*

134. A public art strategy and delivery plan has been provided as part of the application submission. The public Art Officer has been consulted on the proposal and has raised concerns over the £40,000 budget. The proposal includes two commissions – one with a budget of £20,000 and the other for £10,500. The Public Art Officer has suggested that the first commission should have an increased budget to £45,000. This would take the overall budget to £65,000.
135. The submitted document had allowed a budget which had been calculated by using the other financial contributions requested in the expired permission. This scheme provided various contributions totalling just over £1900 per dwelling. The proposed scheme has some additional requests – this is likely to be because previous pooling restrictions meant that there were insufficient projects to allocate funds to and could not, therefore, be requested. The current scheme has contributions requested, including on site improvements to the open space to the west, to the sum of well in excess of £3100 per dwelling. The unexpected level of contributions sought has led to the developer raising concerns over the viability of the project.
137. It is noted that public art provision is ‘encouraged’ by policy HQ/2, and is not a mandatory requirement. The justification text for the policy states that “An appropriate balance needs to be struck between all the competing demands on development and the benefits of public art”.
138. With the above in mind, the applicant has discussed the provision of public art with the Case Officer. Given the improvements to the public open space which will come at a cost to the developer, as well as the policy compliant level of affordable housing proposed, financial contributions and other wider benefits, it is considered that the non-provision of public art is acceptable in this instance.
139. It is noted that the applicant has been involved with public art on the site to date, including the existing hoardings to the site.
140. As a result of the above discussions, the applicant has formally requested that the submitted strategy document be removed from consideration, and no contribution – either onsite or by way of financial contribution – is proposed.
141. Officers consider this to be acceptable given the wider contributions and public benefits, and the proposal does not conflict with South Cambridgeshire Local Plan (2018) policy HQ/2.

#### *S106 Contributions*

142. The Community Infrastructure Levy (CIL) Regulations 2010 have introduced the

requirement for all local authorities to make an assessment of any planning obligation in relation to three tests. Each planning obligation needs to pass three statutory tests to make sure that it 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.

143. In bringing forward recommendations in relation to the Planning Obligation for this development Officers have considered these requirements. The Planning Obligation Strategy (2010) provides a framework for expenditure of financial contributions collected through planning obligations.
144. The applicant has indicated their willingness to enter into a S106 planning obligation in accordance with the requirements of the Strategy. The Heads of Terms are summarised below.

145.

| <b>Heads of Terms</b>                     | <b>Summary</b>  |
|---|---|
| District Council Infrastructure           |   |
| Informal open space                       | Onsite provision to the value of £58,000  |
| Formal Sports                             | Offsite contribution of £49,992.74 to help fund improvements to the existing sports facilities at (a) Ring Fort recreation ground and (b) Topper Street recreation ground specifically the improvement of tennis/netball courts, modifications to the skatepark and a new outdoor gym   |
| Formal and Informal children's play space | Onsite in the form of low key trim trail play items along with natural features such as mounds and boulders.  |
| Allotment and Community Orchard           | Onsite provision  |
| Indoor Community Space                    | in the form of an offsite contribution of £22,696.72 to help fund improvements and alterations to (a) Orchard Park Community Centre and (b) Orchard Park Sports Pavilion specifically upgrade to kitchens at both buildings and purchase of new equipment including tables and chairs . |
| Affordable housing                        | 40% provision on site. All to be for Council rent   |
| Monitoring                                | £500  |
| County Council – Education / Refuse       |   |
| Early years                               | No contributions sought   |
| Primary School                            | No contributions sought   |
| Secondary School                          | No contributions sought   |
| Life Long Learning (Libraries)            | No contributions sought   |
| Strategic waste                           | No contributions sought   |
| County Council - Highways                 |   |
| Cycling                                   | A financial contribution of £75,000 towards cycle   |

|                     |  |
|---------------------|--|
|                     | route improvements on Histon Road between Kings Hedges Road and Hazelwood Close  |
| Other               |  |
| NHS                 | £28,400 towards Arbury Road Surgery  |
| Car Club Membership | Provision of two car club vehicles on-site, funded for two years at a cost of £26,915 as part of the development's Travel Plan |

Subject to the completion of a S106 planning obligation to secure the above infrastructure contributions and 40% affordable housing provision, Officers are satisfied that the proposal accords with the Local Plan requirements.

### Other Matters

146. Many of the third party representations have been discussed in the above commentary. The remainder are covered below.

#### Overheating

147. Representations have raised concerns about potential overheating for future residents of the proposed development. The application has been accompanied by an Overheating Analysis, and this concludes that such an issue would not be a cause for concerns. Officers have scrutinised the document and consider the findings to be acceptable.

#### More people = more noise and litter

148. Concerns have been raised that the introduction of more people to the area would result in more litter and noise being created. Whilst the increase of population will have some impacts on the surrounding area, there is no planning basis to conclude that noise and litter generation would increase – and certainly not to an unacceptably harmful level.

## Planning balance and conclusion

149. The application provides much needed housing (both market and affordable) of a tenure type that meets an identified, and growing, need within the local area.
150. The proposal would significantly improve the public open space to the west of the site and would see a net gain of trees across the site.
151. The proposal would be respectful to the surrounding area, and would provide a high quality development that would respect the spirit of the Orchard Park Design Guide SPD.
152. In conclusion, after taking account of all relevant national and local planning policies and third party concerns, Officers consider the application should be approved subject to conditions, informatives and a S106 agreement as detailed in this report.

## Recommendation

153. **APPROVE** subject to a S106 in accordance with paragraph 145 and the following conditions and informatives:

## Conditions

### GENERAL

1 The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

Reason: In accordance with the requirements of section 51 of the Planning and Compulsory Purchase Act 2004.

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 Notwithstanding the plans hereby approved, 71 of the 75 dwellings shall be constructed to meet the requirements of Part M4(2) 'accessible and adaptable dwellings' of the building Regulations 2010 (as amended 2016).

Reason: To secure the provision of accessible housing as shown on the plans submitted (Local Plan policy HQ/1).

4 Details of the biodiverse (green) roof(s) shall be submitted to and approved in writing by the Local Planning Authority prior to any superstructure works commencing on site. Details of the green roof(s) shall include means of access for maintenance, plans and sections showing the make-up of the sub base to be used and include the following:

- a) Roofs can/will be biodiverse based with extensive substrate varying in depth from between 80-150mm,
- b) Planted/seeded with an agreed mix of species within the first planting season following the practical completion of the building works (the seed mix shall be focused on wildflower planting indigenous to the local area and shall contain no more than a maximum of 25% sedum,
- c) The biodiverse (green) roof shall not be used as an amenity or sitting out space of any kind whatsoever and shall only be used in the case of essential maintenance or repair, or escape in case of emergency,
- d) The biodiverse roof(s) shall be carried out strictly in accordance with the details so approved and shall be maintained as such thereafter,
- e) Where solar panels are proposed, bio-solar roofs should be incorporated under and in-between the panels. An array layout will be required incorporating a minimum of 0.75m between rows of panels for access and to ensure establishment of vegetation,
- f) A management/maintenance plan approved in writing by the Local Planning Authority,
- g) Evidence of installation shall be required in photographic form prior to handover.

The development shall be carried out in accordance with the approved details prior to the occupation of the relevant block.

Reason: To ensure the development provides the maximum possible provision towards water management and the creation of habitats and valuable areas for biodiversity. (Local Plan policies NH/2 and HQ/1)



5 Prior to first occupation of any dwelling, a scheme for the allocation of parking within the development shall be submitted to, and approved in writing by, the Local Planning Authority. The manoeuvring and car and cycle parking areas required for each dwelling, as well as respective cycle stores, shall be provided as per the approved details.

Reason: In the interests of highway safety and to ensure an adequate level of parking provision is retained (Local Plan policy T1/3).

6 Prior to first occupation of any dwelling, the refuse and recycling provision shown on the drawings hereby approved shall be operational and retained thereafter.

Reason: In the interests of highway safety and to ensure an adequate level of parking provision is retained (Local Plan policy HQ/1).

7 Prior to first occupation, the applicant shall submit for the written approval of the Local Planning Authority a Travel Plan in accordance with the aims and objectives of the National Planning Policy Framework.

The applicant shall implement and monitor the approved Travel Plan upon first occupation, and for each subsequent occupation of the development thereafter for a period of five years from first occupation. The Travel Plan shall be maintained and updated to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety and to ensure an adequate level of parking provision is retained (Local Plan policy HQ/1).

8 Prior to first occupation of any dwelling, two pedestrian visibility splays of 2m x 2m shall be provided each side of the vehicular access measured from and along the highway boundary. Such splays 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 adopted public highway.

Reason: In the interests of highway safety

9 The proposed drive way be constructed so that its falls and levels are such that no private water from the site drains across or onto the adopted public highway.

Reason: for the safe and effective operation of the highway

10 The proposed drive be constructed using a bound material to prevent debris spreading onto the adopted public highway.

Reason: in the interests of highway safety

11 No demolition or construction works shall commence on site until a traffic management plan has been agreed in writing with the Planning 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.

Reason: in the interests of highway safety

12 Prior to the commencement of above ground works, samples (including on site panels of a minimum size of 1x1m) and a schedule of materials to be used in all external elevations of the buildings hereby approved, including balconies, shall be submitted to, and approved in writing by, the Local Planning Authority. The quality of finish and materials incorporated in any approved sample panel(s), which shall not be demolished prior to completion of development, shall be maintained throughout the development. The development shall be carried out in accordance with the approved materials.

Reason: In the interests of the visual amenity and to ensure that the quality and colour of the detailing of the brickwork/stonework and jointing is acceptable and maintained throughout the development (Local Plan policy HQ/1).

13 Notwithstanding the approved plans, prior to development beyond slab level full details of soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. Submitted soft landscape details shall include plans, drawings, and sections at an appropriate scale together with supporting text to describe the following:

- a) Details of all trees, shrubs, herbaceous plants and grass areas including species, stock size, precise locations, planting or seeding rates as appropriate.
- b) Details of the proposed methods and standards for planting of trees shrubs and herbaceous plants in soft areas including specifications for ground preparation, subgrade construction, topsoil depths, pit dimensions and growing medium, root barriers, staking or guying, watering system and surface finishes as appropriate.
- c) Details of the proposed methods and standards for planting of trees in hard surfaced areas and adjacent to roads and paths, including specifications for ground preparation, subgrade construction, tree pit dimensions and growing medium, root barriers, tree staking or guying, watering system and surface finish to the tree pit.
- d) Details of the proposed standards and methods for laying turf and grass seeding including ground preparation and topsoil depths.
- e) Full details of the proposed maintenance and management of the soft and hard landscapes including watering programmes, grassland management, pruning, weed control, mulching, fertilisers and additives, canopy management and thinning, landscape sundries (watering tubes, tree protection, stakes, ties etc) and replacement planting.

Reason: In the interests of visual amenity and to ensure that suitable soft landscape is provided as part of the development. (Local Plan policies NH/2 and HQ/1)

14 All 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, any tree, shrub or herbaceous plant is removed, is noticeably damaged, diseased or dies, or fails to make reasonable growth then another tree, shrub or herbaceous plant of the same species and size as that originally planted shall be planted at the same place within the next available planting season, unless the Local Planning Authority gives its written consent to any variation.

Reason: In the interests of visual amenity and to ensure that suitable soft landscape is provided as part of the development. (Local Plan policies NH/2 and HQ/1)

15 Notwithstanding the approved plans, no development beyond slab level shall take place until full details of hard landscape works have been submitted to and approved in writing by the Local Planning Authority. Submitted hard landscape details shall include plans, drawings and sections at an appropriate scale together with supporting text and shall include the following:

- a) Details of all hard landscape areas, including specifications for all proposed hard surfacing, kerbs, edges, ramps and channels, including dimensions, materials, finish, colour and typical construction.
- b) Details of all changes in levels and junctions between areas of different hard materials.
- c) Details and specification for all inspection and utilities covers set within hard surfaced areas.
- d) Details of all street furniture including benches, tree guards, landscape lighting, etc.

Reason: In the interests of visual amenity and to ensure that suitable hard landscape is provided as part of the development. (Local Plan policies NH/2 and HQ/1)

16 Prior to commencement of development, a detailed Arboricultural Method Statement and Tree Protection Strategy shall be submitted to and approved in writing by the Local Authority, including details of timing of events, protective fencing and ground protection measures. This should comply with BS5837.

The tree protection measures shall be installed in accordance with the approved tree protection strategy before any works commence on site. The tree protection measures shall remain in place throughout the construction period and may only be removed following completion of all construction works.

Reason: To satisfy the Local Planning Authority that arboricultural amenity will be preserved in accordance with section 197 of the Town and Country Planning Act 1990 (Local Plan policies HQ/1 and NH/2).

17 No development hereby permitted shall be commenced until a surface water drainage scheme for the site, based on sustainable drainage principles and in accordance with South Cambridgeshire District Council local plan 2018 policies CC8 and CC9 has been submitted to and approved in writing by the LPA.

The scheme shall subsequently be implemented in accordance with the approved details before the development is occupied. The scheme shall be based upon the principles within the agreed Flood Risk Assessment & Drainage Strategy Report prepared by Walker Associates Consulting (ref: W:\WACL - 7356-L2 Orchard Park\Civils\Letters\7356-020.09.08 FRA) dated 11th August 2020 and shall also include:

- a) Details of the existing surface water drainage arrangements including runoff rates for the  $Q_{BAR}$ , 3.3% Annual Exceedance Probability (AEP) (1 in 30) and 1% AEP (1 in 100) storm events plus climate change;
- b) 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 a schematic of how the system has been represented within the hydraulic model;

- c) Detailed drawings of the entire proposed surface water drainage system, including levels, gradients, dimensions and pipe reference numbers;
- d) A plan of the drained site area and which part of the proposed drainage system these will drain to;
- e) Full details of the proposed attenuation and flow control measures;
- f) Site Investigation and test results to confirm infiltration rates;
- g) 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;
- h) Full details of the maintenance/adoption of the surface water drainage system;
- i) Measures taken to prevent pollution of the receiving groundwater and/or surface water

The drainage scheme must adhere to the hierarchy of drainage options as outlined in the NPPF PPG

Reason: To ensure that the proposed development can be adequately drained and to ensure that there is no increased flood risk on or off site resulting from the proposed development (Local Plan policy CC/9).

18 The approved renewable/low carbon energy technologies (as set out in the Energy Assessment September 2020) shall be fully installed and operational prior to the occupation of the development and thereafter maintained in accordance with a maintenance programme, details of which shall have previously been submitted to and approved in writing by the local planning authority.

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.) (Reason – To ensure an energy efficient and sustainable development in accordance with Policy CC/3 of the adopted South Cambridgeshire Local Plan 2018 and the Greater Cambridge Sustainable Design and Construction SPD 2020)

19 No dwelling(s) shall be occupied until a water efficiency specification for each dwelling type, 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)

20 No construction work and/or construction related dispatches from or deliveries to the site shall take place other than between the hours of 08.00 to 18.00 on Monday to Friday, 08.00 to 13.00 hours on Saturdays and no construction works or collection / deliveries shall take place on Sundays, Bank or Public Holidays unless otherwise approved in writing by the local planning authority.

Reason: To protect the amenities of nearby residential properties in accordance with South Cambridgeshire Local Development Framework Development Control Policies 2007, Policy NE/15-Noise Pollution & DP/6- Construction Methods

21 In the event of the foundations for the proposed development requiring piling, prior to the commencement of development the applicant shall provide the local authority with a report / method statement for approval detailing the type of piling and mitigation measures to be taken to protect local residents noise and or vibration. Potential noise and vibration levels at the nearest noise sensitive locations shall be predicted in accordance with the provisions of BS 5528, 2009 - Code of Practice for Noise and Vibration Control on Construction and Open Sites Parts 1 – Noise and 2 -Vibration (or as superseded). Development shall be carried out in accordance with the approved details

Reason: To protect the amenities of nearby residential properties in accordance with South Cambridgeshire Local Development Framework Development Control Policies 2007, Policy NE/15-Noise Pollution, NE/16- Emissions & DP/6- Construction Methods

22 No development shall commence until a programme of measures to minimise the spread of airborne dust (including the consideration of wheel washing and dust suppression provisions) from the site during the construction period or relevant phase of development has been submitted to and approved in writing by the Local Planning Authority. Works shall be undertaken in accordance with the approved details / scheme unless the local planning authority approves the variation of any detail in advance and in writing.

Reason: To protect the amenities of nearby residential properties in accordance with South Cambridgeshire Local Development Framework Development Control Policies 2007, Policy NE/15-Noise Pollution, NE/16- Emissions & DP/6- Construction Methods

23 Prior to the installation of any artificial lighting, an artificial lighting scheme shall be submitted to and approved in writing by the local planning authority. The scheme shall include details of any artificial lighting of the site. Artificial lighting on and off site must meet the Obtrusive Light Limitations for Exterior Lighting Installations contained within the Institute of Lighting Professionals Guidance Notes for the Reduction of Obtrusive Light - GN01:2011 (or as superseded).

The approved lighting scheme shall be installed, maintained and operated in accordance with the approved details / measures.

Reason: To protect the amenities of nearby residential properties in accordance with South Cambridgeshire Local Development Framework Development Control Policies 2007, Policy NE/16- Emissions & DP/6- Construction Methods

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

Reason – To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy SC/11 of the adopted South Cambridgeshire Local Plan 2018.

25 No development shall commence above slab level until a site-based Low Emission Strategy (LES) is submitted to and approved in writing by the Local Planning Authority. The LES shall include the details for the following:

- Provision for Electric Vehicle Charging Points
- Cycling Scheme: total of 116 spaces proposed
- The provision, and location of, Air Source Heat Pumps (ASHP)
- Installation of Photovoltaic (PV) panels are welcome.
- An implementation plan for each of the proposed measures

The development shall be carried out in accordance with the approved LES and retained as such.

Reason: In the interests of reducing impacts of developments on local air quality and encouraging sustainable forms of transport in accordance with Policies SC/12 and TI/2 of the South Cambridgeshire Local Plan 2018 and the Greater Cambridge Sustainable Design and Construction SPD 2020

26 A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and approved in writing by, the local planning authority prior to the commencement of development above slab level. The content of the LEMP shall include the following.

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management, including how a positive outcome in biodiversity enhancement will be achieved.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Prescription of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) 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 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 improve the bio-diversity contribution of the site (Local Plan policy NH/4).

27 Prior to the commencement of above ground works, a scheme for the provision of fire hydrants shall be submitted to, and approved in writing by, the Local Planning Authority. The scheme shall be implemented in accordance with the approved details. The approved scheme shall detail the implementation strategy for the fire hydrants (noting the hydrants may be installed in a phased manner across the site). No dwellings shall be occupied until the fire hydrants serving that part of the site have been implemented and installed in accordance with the approved Scheme.

Reason: In the interests of residential safety (Local Plan policy HQ/1).

## 28 Broadband connection

The dwelling(s) hereby approved shall not be occupied until the dwelling(s) has been provided with sufficient infrastructure, including sockets, cabling and connection points, sufficient to enable 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, 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.)

## 29 Biodiversity Net Gain

No development above slab level shall commence until a biodiversity enhancement scheme has been submitted to and approved in writing by the Local Authority. It shall include the consideration of native planting, hedgehog habitat and connectivity and the proposed specification, number and locations of internal and / or external bird and / or bat boxes on the new buildings and any other measures to demonstrate that there will be a net biodiversity gain on the site of at least 10% (unless an alternative target is otherwise agreed by reason of viability). The biodiversity enhancement scheme as agreed shall be carried out prior to the occupation of the development and subsequently maintained in accordance with the approved scheme for the lifetime of the development.

Reason: In accordance with the NPPF 2019 and Policy NH/4 of South Cambridgeshire Local Plan 2018

## **INFORMATIVES**

1 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

2 There shall be no burning of any waste or other materials on the site, without prior consent from the Environment Agency. A D7 exemption registered with the Environment agency is required.

3 Green Roofs:

All green roofs should be designed, constructed and maintained in line with the CIRIA SuDS Manual (C753) and the Green Roof Code (GRO).

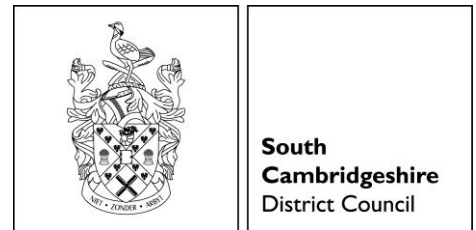
## **Report Author:**

Name – Ganesh Gnanamoorthy

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# Agenda Item 7



26 May 2021

**Report to:** South Cambridgeshire District  
Council Planning Committee

**Lead Officer:** Joint Director of the Greater  
Cambridge Planning Service

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## 20/02066/FUL – 180 High Street, Harston

Proposal: Erection of a residential development containing nine units comprising a mixture of houses and apartments along with access, car parking, landscaping and associated infrastructure following demolition of existing buildings

Applicant: Enterprise Residential Development Ltd

Key material considerations:

- Principle of development
- Housing Density
- Housing Mix
- Loss of a Village Service
- Loss of Employment
- Character and Appearance of Area
- Highway Matters and Parking Provision
- Residential Space Standards
- Neighbour Amenity
- Residential Amenity
- Biodiversity
- Trees and Landscape
- Flooding and Drainage
- Noise
- Contamination

Date of Member site visit: No

Is it a Departure Application?: No

Decision due by: Out of time.

Application brought to Committee because: Local member requests the application is determined by Planning Committee.

Officer Recommendation: Approval

Presenting officer: Karen Pell-Coggins

## **Executive Summary**

This application seeks full planning consent for residential development containing nine units comprising a mixture of houses and apartments along with access, car parking, landscaping and associated infrastructure following demolition of existing buildings.

The site is 0.24 hectares in area and forms a prominent corner plot on the High Street (A10) and London Road (B1368), being the first visual approach as you enter in Harston. The site is currently fenced off with herras fencing and has a two-storey building located at the front which was occupied by the former Vujon Indian restaurant which closed in 2018. A large car park lies to the rear which is accessed off London Road. The site lies within the Harston Village Development Framework and Flood Zone 1 (low risk).

Officers consider that the proposal, as amended, would reflect the character and visual amenity of the area. It is acknowledged that the site lies within a prominent corner and entrance into Harston. As a result, the proposed apartment building which lies on the corner has a design and appearance which addresses and accentuates the gateway location. The design and appearance of units 1-7 would also be appropriate to the context of the site. Planning conditions can be applied to secure details of external materials, fenestration and hard and soft landscaping amongst others, to ensure that the quality of development is taken through to completion in a manner which is fully compatible with its location.

The scheme has therefore been recommended for approval subject to planning conditions.

## **Relevant planning history**

No recent relevant planning applications.

## **Planning policies**

### **National Guidance**

National Planning Policy Framework 2019 (NPPF)  
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/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  
E/14 Loss of Employment Land to Non-Employment Uses  
HQ/1 Design Principles  
NH/4 Biodiversity  
H/8 Housing Density  
H/9 Housing Mix

H/10 Affordable Housing  
H/12 Residential Space Standards  
SC/3 Protection of Village Services and Facilities  
SC/7 Outdoor Play Space, Informal Open Space and New Developments  
SC/11 Contaminated Land  
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)**

Sustainable Design and Construction – Adopted January 2020  
District Design Guide – Adopted 2010  
Maintenance of Sustainable Drainage Systems – Adopted 2016  
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  
Greater Cambridge Sustainable Design and Construction Supplementary Planning Document- Adopted January 2020

### **Consultation**

**Harston Parish Council** - Comments on original application - No objections.

Supports the application in principle, however would like consideration be given to the height of houses 6 & 7 and apartments 8 & 9 as they consider these to be too high. They also wish to know if there is any affordable housing as part of the development.

Comments on amended application - No objections.

The Parish support the above proposal. The only caveat they would like to add, is that the developer liaise with the owner of the property at no 8 London Road who are concerned about the proximity of plot 7 to their property as they consider that their privacy will be compromised.

**Councillor Mason** - Comments on original application - The development raises several areas of concern that raise objections in regard to the proposed height of certain elements, particularly the apartments and buildings overlooking neighbours, the design and construction materials, should be more sympathetic, car parking and access and visual impact on the entry point to the village. Requests the application be determined by planning committee if the application is to be recommended for approval.

Comments on amended application- The revised planning application is not sufficiently different to mitigate my original objections, and those of the immediate neighbours to this development.

If the planning officer is minded to pass this application, I request that it goes to planning committee for discussion and decision.

**Anglian Water** - Comments on original application - No comments received (out of time).

Comments on amended application- As this isn't a major application, it doesn't fall within AW's remit to comment on the proposal.

**Contaminated Land Officer** - Comments on original application - No objections.

Requests a condition in regard to details of contamination in the form of a Remediation Method Statement and Verification report.

Comments on amended application- The additional details submitted do not change the previous comments.

**Drainage Officer** - Comments on original application- Objections.

It is not possible to comment on the proposed development as it is considered that the soakaways based on the tests depths are not suitable for drainage design. If drainage to ground is required, further testing via a shallower infiltration methodology is recommended to appraise the potential infiltration rates within near surface soils to facilitate a shallow drainage solution rather than traditional soakaways. Requests additional groundwater monitoring to take account for any seasonal variation, confirm the unsaturated zone thickness and provide greater confidence in the long-term effectiveness of any infiltration drainage system adopted at the site is required.

As outlined in paragraph 6.3.21 of the SPD adopted by South Cambridgeshire District Council on 8 November 2016, there must be a minimum clearance of 1.2 m between the base of any infiltration feature and peak seasonal groundwater levels. At present this has not been demonstrated as part of the application.

The Phase I & II Geo-Environmental Site Assessment indicates a moderate risk of leaching of contaminants and infiltration into groundwater which requires further consideration. The MicroDrainage Soakaway Design Calculations require further assessment.

Justification is required for some of the input parameters for the MicroDrainage Porous Car Park Design Calculations dated 26/03/2020 in Appendix H of the Flood Risk Assessment and Drainage Strategy report.

Comments on amended application- No objections subject to a condition in relation a detailed surface water drainage scheme for the site based upon sustainable drainage principles within the agreed Flood Risk and Drainage Strategy Report prepared by Ingleton Wood (ref: 111735) dated 6 October 2020 Second Issue and a condition to agree details for the long term maintenance arrangements for the surface water drainage system (including all SuDS features).

Also requests an informative with regards to the method of surface water drainage.

**Ecology Officer** - Comments on original application - Objections.

Objection to the application as the submitted Preliminary Ecological Appraisal recommends further surveys are required and these have not been submitted.

Comments on amended application - No objections.

The applicant has submitted an Ecological Impact Assessment: Bats (Greenwillows Associates, August 2020) in support of the application. The report has concluded that there are no bats roosting within the building. Therefore no further action is required in this respect. Recommends conditions are added to any consent granted in regard to ecological measures

being carried out in accordance with the details in the Preliminary Ecological Appraisal, a lighting design strategy for biodiversity is submitted and a biodiversity enhancement scheme shall be submitted.

**Environment Agency** - Comments on original application - No comments received (out of time).

Comments on amended application - No objections.

The site is located upon Principal and Secondary aquifers. It does not lie within a groundwater Source Protection Zone designated for the protection of public water supply. The site has been used previously as a public house and restaurant. Contaminants have been encountered in soils and groundwater. The site is environmentally sensitive and may present pollutant linkages to controlled waters. Requests conditions in regard to submission of a remediation strategy, if contamination not previously identified is found, a scheme for surface water disposal and piling or any other foundations plus informatives.

**Environmental Health Officer** - Comments on original application - No objections.

Has reviewed the Noise Assessment, satisfied with the methodology and findings. Requests conditions relating to the window details and boundary treatment to ensure mitigation measures are adhered to.

Comments on amended application- Please see previous comments.

**Landscape Officer** - Comments on original application - No comments received (out of time).

Comments on amended application- No objections.

Following minor amendments, the site is capable of accommodating a development without resulting in material harm to the settlement character and views from the wider local area. The existing green corridor down the High Street should be reflected within the development and it is recommended that a large tree is included upon the north western boundary.

Condition soft and hard landscaping, boundary treatment, cycle parking, bin storage and lighting.

**Local Highways Authority** - Comments on original application- No objections.

Requests conditions in regard to relocating the keep clear site on the existing carriageway, pedestrian visibility splays, access width to 5 metres, the falls and levels of the site are that no water drains onto the highway, the access be constructed using a bound material, any gates be set 5 metres from the highway boundary, a traffic management plan and informative in regard to no works to the public highway.

Comments on amended application- Please see previous comments.

**Tree Officer** - Comments on original application- Holding objection - unable to comment on the application and unable to locate the Tree Survey and Arboricultural Impact Assessment.

Comments following review of aforementioned details - No objections. The Tree Survey and Arboricultural Implications Assessment, Preliminary Arboricultural Method Statement and Tree Protection Plan are sufficient for this proposal, tree and the site and can be listed as an approved document.

Comments on amended application- Please see previous comments.

No arboricultural or hedgerow objections to this application. Tree and hedgerow information has been provided. A Tree Survey and Arboricultural Implications Assessment, Preliminary Arboricultural Method Statement & Tree Protection Plan (dated 22/04/2020) has been submitted. This is sufficient for this proposal, trees and site and can be listed as an approved document. I defer to the Landscape Design Officer with regard to landscape plans.

**Urban Design Officer** - Comments on original application - No objections.

Officers do not object to the scheme. The scheme has good design merit and the positioning of buildings on the site has improved since pre-application discussions. This helps improving street enclosure and creating some character along the High Street and London Road. Officers have some concerns regarding the dominance of car parking, proposed heights of units 6 & 7, communal space provision for units 8 & 9 and the frontage of the development around the corner on the ground floor level.

Comments on amended application - No objections.

Generally supportive of the proposals in urban design terms. The scheme has good design merit and most of the previously raised concerns in the consultation dated (29/01/2021) are addressed. This has helped in improving the frontage of the development and creating some character along the High Street and London Road.

Welcomes the amendment to Unit 7 by pushing the back-building line further north-eastwards to minimise the potential adverse impact upon the neighbour's amenity space. Given that the main private amenity space for the neighbouring property is located to the rear of the house, officers consider that this impact is not substantial.

Suggests that the private amenity space allocated for Unit 8 to be fenced as Low Wall 450mm/hedgerow which would give this space more privacy and draw a line between private and public spaces, given its close proximity to the main entrance of the site.

Suggest that the remaining roof area of the first floor step back can be designed as green roof, as this can give much better outlook from the internal spaces and this can support biodiversity (e.g. the study room in Unit 9 and the living space in Unit 8).

Welcomes the introduction of decorative brickwork to the corner block on the ground floor level. This will improve this elevation and the presence of the development at the corner. The decorative brickwork should be frequently applied across the development for architectural coherence benefit.

Recommends conditions in regard to materials, details of windows, doors, surrounds, heads, cills, balconies, eaves, verges, soffits, fascia and green roofs, boundary treatments, and bin and cycle storage.

**Waste Officer**- Comments on original application - No objections.

The refuse vehicle will not be able to enter if this is a private driveway. There will need to be provision for a flat, hardened surface outside the entrance gates so that residents can present their bins by the main highway.

Comments on amended application - Please see previous comments.

## Representations from members of the public

18 comments objecting to the application have been received, the comments are summarised below:

- Overdevelopment of the site.
- Insufficient room for residents, visitors and delivery vehicles.
- Resulting in parking on London Road which will be unsafe.
- Densely packed development not in keeping with village.
- Apartment block at three stories high is too high.
- Requirement for offices and charging points for electric vehicles.
- Concerns regarding refuse vehicles and bins on the junction of London Road and the A10.
- Design not in keeping with its location of a historic village setting.
- Cannot afford to have any further poorly designed schemes.
- The original pub building should be retained in any new scheme.
- The replacement of the pub building is too high and not consistent with surrounding buildings.
- Over intensification of the site by a number of units and households.
- Lack of high quality landscaping.
- Replacement of the horse chestnut is wrong and should be refused on all grounds.
- Over density of development
- The proposed units behind the pub are not consistent with the building line of the existing properties on the high street.
- Overlooking of units 6 and 7.
- Two and a half and three storey dwellings are not in keeping with the village.
- Nine dwellings is too high for the size of the site and cause problems with traffic density entering and exiting the village.
- The landscaping of the car park on entering the village is not appealing.
- Design is similar to Trumpington meadows and should be more sympathetic to the pub and village.
- Units 8 and 9 are too high.
- Neighbour amenity concerns of loss of light, privacy, intrusive.
- The current scheme fails to enhance opportunities for passive surveillance.

Following the amended plans, the following comments have been received from 2 representatives:

- Unit 7 reduces light to adjacent neighbouring property.
- 2.5 storey house adjacent to neighbouring courtyard and lounge.
- No mention of obscure glass in the first storey side stairwell window of unit 7. Vision will be possible to neighbouring courtyard and lounge.
- First floor storey stairwell window of unit 6 will result in direct vision into the courtyard, hallway and dining room with no obscure glass.
- Still a 3 storey development.
- Little separation to neighbouring properties.
- Close proximity to neighbouring single storey element.
- Over development of the site.
- Not sympathetic to the immediate surrounding area.
- No onsite visitor/service vehicle parking proposed resulting in vehicles using London Road to park.
- Harm to adjacent neighbouring properties and vision when entering and leaving driveways.

- Highway safety issue of vehicles approaching the traffic lights from London Road and entering London Road from the A10.
- Arrangements required for parking of contractor vehicles.
- Site is over utilised and not sympathetic to the existing building lines of the High Street.
- Too many units.
- The large horse chestnut tree has been removed and not replaced.
- The frontage of the pub should be retained.
- The proposed replacement does not meet the architectural quality required at such a prominent site within the village.
- Massing of the replacement is too large and too high and the rear element too close to the High Street with windows overlooking Nos. 171 and 172 High Street.
- Any massing outside the curtilage of the existing building should be pushed back to the building line of the High Street.

**Harston Local History Group** - The application does not mention the NPPF advice to reuse historic buildings and local heritage assets where possible. The application discounts the existing building of being any importance to the village community yet at 180 years old and is of historical importance to the village community as the Old England Gentleman pub. Refers to the recent Neptune building, which was retained and built to the rear rather than demolished. The large corner entrance building is unnecessary and too high. The corner design provides a fairly blank wall on the ground floor. A lower density would be better and more in character with the village.

### **The site and its surroundings**

The site is 0.24 hectares in area and forms a prominent corner plot on the High Street (A10) and London Road (B1368), being the first visual approach as you enter in Harston. The site is currently fenced off with herras fencing and has a two-storey building located at the front which was occupied by the former Vujon Indian restaurant which closed in 2018. A large car park lies to the rear which is accessed off London Road.

The site lies within the Harston Village Development Framework and Flood Zone 1 (low risk).

### **The proposal**

The application seeks full planning consent for residential development containing nine units comprising a mixture of houses and apartments along with access, car parking, landscaping and associated infrastructure following demolition of existing buildings.

### **Amendments**

Amended plans have been received for the proposal in which the design of units 6 and 7 has been amended, turning the roof of unit 6 by 90 degrees, dropping the eaves to align with the eaves of units 2 and 3, removal of the dormer windows and lowering the height by 500mm, reading as 2.5 storeys in height. Unit 7 has been sited forwards by 2 metres and the rear elevation has been set back. Sedum roofs have been added to flat roof elements.

For units 8 and 9, the corner block has been reduced by 500mm, the elevations brightened with a warm yellow render and render added to the gable end. The eaves have been reduced consistent with unit 1. Timber panels and decorative brickwork has been added to the elevations.



The footpath has been redirected to run between units 5 and 6, wall outside unit 9 lowered in height, planters proposed between parking for units 6 and 7, additional planting and trees around car parking spaces, bicycles and bins shown in the garage of unit 8, omission of gates, low wall outside the entrance of unit 9, bench outside unit 9 and the eaves line of unit 1 has been reduced along the High Street, consistent with unit 9.

A revised Flood Risk Assessment and Drainage Strategy have been provided and updated Ecology Report in the form of a Bat Survey.

## **Planning Assessment**

### **Principle of Development**

The site is located within the village development framework of Harston which is classed as a Group Village under Policy S/10 of the Local Plan. The policy states that residential development and redevelopment up to an indicative maximum scheme size of 8 dwellings will be permitted within development frameworks of Group Villages. Development may exceptionally consist of up to about 15 dwellings where this would make the best use of a single brownfield site.

The proposal seeks consent for 9 dwellings. Given the site comprises of previously developed land (brownfield), the proposal would fall under the 15 dwellings where it would make best use of a single brownfield site and the proposal would therefore accord with Policy S/10 of the adopted Local Plan.

### **Housing Density**

Policy H/8 of the Local Plan seeks that all residential developments make the best use of the site by achieving net densities of at least 30 dwellings per hectare unless exceptional local circumstances require a different treatment. The site has an area of 0.24 hectares and the proposal for 9 dwellings would result in a density of 37.5 dwellings per hectare. It is acknowledged the density would be higher than the policy requirement, however Officers consider it would not adversely impact on the character and visual amenity of the area.

### **Housing Mix**

Policy H/9 of the Local Plan states that a mix of market homes are to be provided on sites of 9 or fewer homes to take account of local circumstances. The proposal would provide 2 x 1 and 2 beds, 5 x 3 beds and 2 x 4 beds which is considered to provide a mix of houses.

### **Loss of a Village Service**

The existing use of the site falls under a restaurant E(b) sale of food and drink for consumption (mostly) on the premises which was previously A3 (restaurants and cafes). Policy SC/3 of the Local Plan Protection of Village Services and Facilities states planning permission will be refused for proposals which would result in the loss of a village service, including village pubs, shops, post offices, banks and building societies, community buildings and meeting places, sports venues, cultural buildings, places of worship or health facilities. The loss of the restaurant would therefore not fall under this policy, as there will be no loss of a village service.

### **Loss of Employment**

Policy E/14 of the Local Plan states that the conversion, change of use or redevelopment of existing employment sites to non-employment uses within or on the edge of development frameworks will be resisted unless the three criteria are met in regard to the site demonstrating it is inappropriate for employment use to continue having regard to market demand, the overall benefit to the community of the proposal outweighs any adverse effect on employment opportunities and the existing use is generating environmental problems such as noise, pollution or unacceptable levels of traffic and any alternative employment use would continue to generate similar environmental problems. The former restaurant provided a small element of employment. Given Policy E/14 of the adopted Local Plan applies to larger employment sites, it is not considered relevant in this case.

Notwithstanding the above, the application has stated that the site has been marketed since November 2017 with an advertising board and advertised on Savills website. There was interest from a range of operators and parties, with seven formal offers received, all of which were from residential developers. The party ended up withdrawing and a remarketing campaign was launched in February 2019. The marketing details have been provided as part of the planning application.

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

Policy HQ/1 of the Local Plan requires all new development to make a positive contribution to its local and wider context. Development proposals should, appropriate to their scale and nature, preserve or enhance the character of the local urban and rural area and respond to its context in the wider landscape (criterion 1a) and 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 (criterion 1d).

The site lies in a prominent location as you enter into the village of Harston from Hauxton and Cambridge.

The surrounding area to the site is characterised by a mix of residential dwellings of both traditional and more modern designs. There is a mix of materials, styles and appearances.

The dwellings are set within large spacious plots and are large in size and height, but this is not visually evident as they tend to be set back a distance from the public highway. The character of the area is very rural with a distinct difference between character and built form of Cambridge, Trumpington Meadows and Hauxton as you go further from these more built up areas to the south.

The design, height and appearance of units 6, 7, 8 and 9 have been amended to overcome the concerns raised.

The proposed height of the Units 1, 2, 3, 4 and 5 would be predominantly two storey (7.7 metres) with Units 6 and 7 being two and a half storeys (8.8 metres), and Units 8 and 9 being three storey's (9.5 metres). The proposed ridge height of units 6 and 7 would be approximately 8.8 metres, with the apartment building being approximately 9.5 metres and units 1-5 being approximately 7.7 metres in height.

The apartment building comprising Units 8 and 9 is higher than the other proposed dwellings on the site and the two and a half storey and two storey dwellings in the area. It would also be higher than the existing building on the site which is two storey and is approximately 8 metres in height. However given its location, is considered that the apartment building should have a height that addresses its important corner position and accentuates the gateway location in a positive manner. This is highlighted in Paragraph 6.130 of the District Council's

District Design Guide SPD, adopted March 2010 which states that 'an increase in the height of a building relative to surrounding buildings can, in certain instances, be justified by the building's townscape role'. 'Height can be used to provide variety to rooflines, form strong edges to otherwise undefined space, define nodes, provide increased presence for important spaces and act as local or district landmarks'.

The proposed apartment building, on balance, would not be excessively high or out of character with the area. The proposed apartment building turns the corner and therefore, it is considered given its position, site and context, it is not comparable to other neighbouring buildings and that the location demands that it addresses the corner and accentuates the gateway location in a positive manner at an important entrance to the village.

The proposed heights of Units 6 and 7 have been amended and reduced in height by 500mm. Whilst it is acknowledged these units would be higher than Units 1, 2, 3, 4 and 5 by approximately 1 metre, they are considered satisfactory in appearance given their position set approximately 12 and 17 metres into the site and that they would be read as two storey dwellings with accommodation within the roofspace. The height difference between Units 6 and 7 and the adjacent neighbour at No.8 London Road would not, in Officers' view, be excessive in that it would be harmful to the character and appearance of the area or inappropriate to the context.

The proposed design of the apartment building serving Units 8 and 9 has been amended with decorative brickwork and timber panels to break up the mass of the elevation and successfully turn the corner. The eaves of the building have been reduced to align with proposed unit 1 to the rear. These design features provide interest to the building which is located on a key corner junction at the entrance to Harston and are considered acceptable. It is not considered necessary for the remainder of the development to have decorative brickwork given their less prominent positions within the street scene.

The proposed design of Units 6 and 7 has been amended and the roofs have been reconfigured, eaves reduced and dormer windows omitted. The design of these units is now considered acceptable as they would be similar to the design of Units 8 and 9 and existing buildings along London Road.

The two storey height and design of Units 1 to 5 are considered satisfactory in terms of the impact upon the street scene.

A condition would be attached to any consent to agree details of external materials to ensure that the development would safeguard the character and appearance of the area. It is not considered necessary to attach conditions to any consent in relation to details of the windows, doors, surrounds, heads, cills, balconies, eaves, verges, soffits, fascia and green roofs given that the site is not in a sensitive location in the conservation area or within the setting of a listed building.

A number of comments have been raised regarding the prominence of the car parking. It is considered that through careful hard and soft landscaping, the proposed impact of the car park has been reduced to ensure it would not be harmful to the visual amenity of the area. Further landscaping has been introduced to the site and there would be trees either side of the access to the site, a wall with railings and landscaping along London Road, blocks of landscaping between groups of parking spaces, and trees within the front gardens of Units 3, 4 and 5.

It is acknowledged that comments from the Parish Council, local member and neighbours have been received in regard to the proposed height and visual impact of units 6, 7, 8 and 9, in relation to the character of the area and development. However, following the submission

of amended plans, it is considered, on balance, that the proposal would be acceptable to the visual amenity and character of the area.

It is noted that within the adjacent village of Hauxton, there is a large residential development comprising of three and four storey apartment blocks. However given the distance of the site from Hauxton and its rather different character and rural nature, the proposed site is looked at on its own merit and planning considerations.

#### Loss of the existing building

The proposal will result in the loss of the existing building of the site. The building is not listed and is not situated within a Conservation Area. It is acknowledged due to the age, design and character of the building, it does provide visual interest as you enter into Harston. A number of comments have been received in regard to retaining this building and using it as part of the development to retain the visual amenity and character. The Harston Local History Group state that the building is on the proposed Buildings of Local Interest List of Harston. This is acknowledged however given the buildings lack of formal designation, the loss of the building is not considered unacceptable.

It is considered on balance, that the proposal would accord with Policy HQ/1 of the adopted Local Plan and the District Design Guide SPD adopted 2010.

#### **Highway Matters and Parking Provision**

The application has been accompanied by a Transport Statement. The proposed site will be served by the existing access onto London Road, with a new pedestrian access introduced on the A10. The Local Highways Authority have raised no objection to the proposal and requested a number of planning conditions in regard to relocating the keep clear site on the existing carriageway, pedestrian visibility splays, access width to 5 metres, the falls and levels of the site are that no water drains onto the highway, the access be constructed using a bound material, any gates be set 5 metres from the highway boundary, a traffic management plan and informative in regard to no works to the public highway.

A neighbour has raised concern regarding parking during the build of the development. This would be detailed as part of the condition to require a traffic management plan and agreed with the Local Highway Authority to ensure no harm to highway safety during the construction.

A neighbour has raised concern regarding vehicles turning right into the site across the west bound lane of London Road, blocking traffic and also vehicles coming into London Road from the A10. The Local Highways Authority have raised no concerns regarding the proposed access and highway safety.

Two car parking spaces are provided for each dwelling forming units 1-7 with one car parking space provided for units 8 and 9 which form the apartments. Policy TI/3 states that 2 spaces per dwelling with 1 space to be allocated within the curtilage. This is indicative and the policy requires car parking provision to be provided through a design-led approach. It is acknowledged that the two apartment units would have one space provided, on balance this is considered acceptable.

A number of neighbours raised concern regarding a lack of parking and particularly for visitor spaces. This is not a requirement in policy TI/3 of the Local Plan.

The proposal would therefore accord with Policies HQ/1 and TI/3 of the adopted Local Plan and the National Planning Policy Framework.

### **Residential Space Standards**

The development would be required to meet Policy H/12 Residential Space Standards. The proposal would accord with the minimum space and storage standards in accordance with Policy H/12.

### **Neighbour Amenity**

Policy HQ/1 of the Local Plan requires all new development to make a positive contribution to its local and wider context. Development proposals should, appropriate to their scale and nature, protect the health and amenity of occupiers and surrounding uses from development that is overlooking, overbearing or results in a loss of daylight or development which would create unacceptable impacts such as noise, vibration, odour, emissions and dust; (criterion 1n).

Numerous neighbours have raised concern regarding the impact of the proposal on their amenity.

The District Design Guide states that to prevent the overlooking of habitable rooms a minimum distance of 25 metres should be provided between rear or side building faces containing habitable rooms. This should be increased to 30 metres for 3 storey residential properties.

Amended plans have been received following the neighbour concerns raised in which the height of proposed units 6 and 7 have been lowered by 500mm, lowering the eaves, the roof of unit 6 has been turned by 90 degrees so the eaves follow the street line. Unit 7 has been sited forward by 2 metres and the first floor element has now been set back 750mm

The neighbour at No.175 High Street has raised concerns regarding loss of privacy to their front garden from units 8 and 9 of the proposal. Unit 8 and 9 has in the northwest (side) elevation, bathroom windows at ground floor, dining and living room windows at first floor with a study window and window serving the stair and a bedroom window at the second floor. The proposed distance of units 8 and 9 from the front garden boundary of No.175 High Street would be approximately 23 metres and approximately 55 metres from the dwelling. Given this is a front garden area with private amenity space to the rear and the distance of the proposed buildings from the boundary, it is not considered the proposal would result in a significant loss of privacy, harming the amenity of this neighbour to warrant refusal.

The neighbour at No.171 has raised concern regarding the massing of the development being too high and too close to the High Street, with the proposed windows over looking the neighbouring properties at Nos. 171 and 173 High Street. Given the significant distance of these neighbouring dwellings, across the High Street, the proposal is not considered to result in significant harm on these neighbouring properties.

To the west of the site lies the neighbouring property at No.8 London Road. Within the side elevation which faces towards the site, there are two single storey elements with no windows in the side of these elevations. However, between these two elements there is a courtyard area which serves as a sitting area. Within this u shape area, there are patio doors serving the kitchen/dining area window, a window serving a corridor and patio doors serving the living room. All are secondary windows as there are primary windows in the front and rear elevations serving the habitable rooms. The main sitting out area is to the rear of the

dwelling. This neighbour has raised concern regarding the close proximity of unit 7 to their property and the first-floor window to their living room window and courtyard area, resulting in loss of privacy, overbearing impact and loss of light to their dwelling and courtyard area.

Following amended plans, the overall height of units 6 and 7 have been reduced by 500mm and unit 7 has been sited forward by 2 metres and the rear elevation set back 750mm to improve the relationship with the adjacent neighbour at No.8 London Road.

Unit 7 would be sited approximately 1 metre from the common boundary with this increasing to 1.1 metres and decreasing to less than a metre in parts. It would be at its closest 1.7 metres from the dwelling to No.8 London Road and at its furthest 2.2 metres.

Given the set back of the rear elevation of unit 7 in line with the rear elevation of the neighbour that has patio doors serving the kitchen/dining room, there would now be a single storey flat roof element with a height of approximately 3 metres adjacent to the courtyard to the neighbour. Although the main two-storey element of the dwelling would be in close proximity to the courtyard, given its position it is not now considered to result in an unduly overbearing mass that would adversely affect the outlook from the secondary sitting out area and windows of the neighbour. This would be similar to the relationship between dwellings that are side by side. The single storey element adjacent to the courtyard would ensure that the main outlooks to the south and west are retained. The dwelling is also not considered to result in a significant loss of light given its orientation to the north west.

Unit 7 would have a ground floor utility room window and first floor stairwell/ landing window in its side elevation and rooflights serving a bedroom in the side facing roofslope which would face towards the neighbour at No.8 London Road. Given that the first floor window is non habitable, the proposal is not considered to result in significant loss of privacy providing a condition is attached to any consent to ensure this window is obscure glazed. The roof lights are not considered to result in a loss of privacy providing a condition is attached to any consent to ensure the window is set 1.7 metres above finished floor level.

Unit 7 would have first floor bedroom windows in its rear elevation. The window closest to the boundary is small and whilst it is noted that it would be in close proximity to the neighbour, it would give an oblique angle of view and is not considered to result in overlooking that would lead to a severe loss of privacy.

Unit 6 would have a first floor stairwell/ landing window in its side elevation and rooflights serving a bedroom in the side facing roofslope which would face towards the neighbour at No.8 London Road. Given that the first floor window is non habitable, the proposal is not considered to result in significant loss of privacy providing a condition is attached to any consent to ensure this window is obscure glazed. The roof lights are not considered to result in a loss of privacy providing a condition is attached to any consent to ensure the window is set 1.7 metres above finished floor level.

To the south of the site lies the neighbouring property at No.174 High Street. There are two windows at ground floor level which serve a living room (secondary) and utility room in the side elevation facing the site, with two sets of patio doors in the rear serving a living room and dining room which face onto a patio area. In the front elevation lies a study window and the main entrance porch and kitchen/breakfast room. There are no first floor windows in the side elevation facing the site, with four windows to the rear elevation which serve two bedrooms and a stairwell. To the front of the property lies two bathroom windows and two bedroom windows. A garage lies to the front of the site. The neighbour has raised concern regarding the loss of privacy and the height of units 6 and 7. Units 6 and 7 would be approximately 8.8 metres in height; within the rear elevations of these proposed dwellings at first floor would be a bedroom window and bathroom window, with a further bedroom window

at second floor level. The first floor element of both units would be set further back within the site than the ground floor elements which project further into the rear garden to the west.

The ground floor level of Unit 6 would be set approximately 15 metres from the common boundary with No.174 High Street, with the first floor level being approximately 18 metres and the ground floor level of unit 7 being approximately 20 metres and first floor level being 25 metres. These figures being from the common boundary with No.174 High Street, with the distances increasing to 23 metres (unit 6) and 30 metres (unit 7) to the rear elevation of this neighbouring dwelling. It is acknowledged there would be an element of overlooking to the rear garden and rear elevation of this neighbour from first and second floor windows. However, given the distances and that there are existing trees and landscaping within the site which is mature and does provide screening and will be retained, on balance it is considered that the proposal would not result in significant harm to warrant refusal on this ground.

The proposal would therefore accord with Policy HQ/1 of the adopted Local Plan.

### **Residential Amenity (of future occupiers)**

The Urban Design Officer in their comments note that unit 7 has a disproportionately small front garden space which is considered unacceptable for such a large dwelling and inconsistent with the frontage of other properties locally.

The proposed rear garden of unit 7 would measure 165m<sup>2</sup> which accords with the Council's District Design Guide which requires that each house with 3 or more bedrooms should have a private garden space of 50m<sup>2</sup> in urban settings and 80m<sup>2</sup> in rural settings. The proposal would comply with this and is considered acceptable in terms of outside amenity space.

### **Biodiversity**

The site has species records which show that great crested newts, barn owls, breeding birds, flowering plants, invertebrates, bats, brown hare, badger, otter, water vole and hedgehogs have been recorded locally. A Preliminary Ecological Appraisal was submitted as part of the application in which, there is one building which has the moderate potential for roosting bats and the other building a low potential for roosting bats. The report has recommended that further surveys are required.

Following the comments of the Ecology Officer, an Ecological Impact Assessment was submitted in which it was concluded that there were no bats roosting within the buildings and therefore the Ecology Officer comments that no further action is required in regard to this.

The Ecology Officer has raised no further concerns regarding biodiversity and recommends that conditions are added to any consent granted in regard to all ecological measures and/or works are carried out in accordance with the submitted Preliminary Ecological Appraisal, submission of a lighting design strategy for biodiversity and biodiversity enhancements for the site are submitted to ensure a net gain in biodiversity.

The proposal would therefore accord with Policy NH/4 of the adopted Local Plan 2018.

### **Trees and Landscape**

The application has been accompanied by a Tree Survey, Arboricultural Impact Assessment Preliminary Arboricultural Method Statement and Tree Protection Plan. Two trees on the site a horse chestnut and ash which are large and visually prominent in street scene views are to

be removed. The Tree Survey submitted seeks to remove these trees as the trees would conflict with the new parking arrangements proposed. New trees and details of landscaping have been submitted as part of the application.

A large number of comments have been received in regard to the loss of the trees on site. The Tree Officer has assessed the submitted Tree Survey, Arboricultural Impact Assessment Preliminary Arboricultural Method Statement and Tree Protection Plan and commented that the submitted details are sufficient and there are no concerns regarding the loss of trees on the site.

Details of proposed hard and soft landscaping have been submitted as part of the application. The proposed landscaping is considered acceptable to enhance the visual amenity of the area. A number of comments have been received in regard to landscaping and the car parking, should consent be granted, a condition shall be added to require details of proposed hard and soft landscaping and ensure the recommendations made by the Landscape Officer can be provided.

The proposal would be in accordance with Policies HQ/1 and NH/4 of the adopted Local Plan.

### **Flooding and Drainage**

The site lies within Flood Zone 1 (low risk). The application has been accompanied by a Flood Risk Assessment and Drainage Strategy Report. The submitted strategy proposed that the development drains to three cellular soakaways and to a type of total infiltration pervious pavement. The Drainage Officer initially raised objections to the proposals and requested that the submitted report suggests that soakaways proposed are based on test depths that are not suitable for the drainage design and requests further testing via a shallower infiltration methodology to appraise the potential infiltration rates within near surface soils to facilitate a shallow drainage solution rather than traditional soakaways. The Drainage Officer suggested that it may be worth undertaking additional groundwater monitoring to account for seasonable variation, confirm the unsaturated zone thickness and provide greater confidence in the long-term effectiveness of any infiltration drainage system adopted at the site. In addition the Phase I and II Geo-Environmental Site assessment details moderate risk of leaching of contaminations and infiltration into groundwater which requires further consideration alongside the MicroDrainage Soakaway Design calculations indicating half drain times in excess of 24 hours for the 1 year, 30 year and 100 year plus 40% climate change critical events and MicroDrainage Porous Car Park Design Calculations requiring justification for some of the input parameters selected.

A revised Flood Risk Assessment and Drainage Strategy has been provided. The amended strategy proposes the discharge of surface water through soakaways into an underground cellular storage attenuation tank with a connection to the existing foul water sewer to manhole 1701 located in London Road. The rate of discharge would be 2.0 litres/second. The hierarchy of sustainable drainage options was considered prior to the selected method. Infiltration is not feasible due to the ground conditions and poor infiltration rates, there is not a watercourse suitable within close proximity of the site, and there are also no surface water sewers within the vicinity of the development. The Drainage Officer has no objections to the revised strategy subject to a condition to agree a suitable strategy in accordance with the sustainable drainage principles in the submitted Flood Risk Assessment and the long maintenance of the system. An informative is recommended to advise that discharge of surface water into a foul water system is only agreed if Anglian Water accepts in writing that the proposed discharge can be accommodated in their foul sewer network.

The proposal would therefore accord with Policies CC/8 and CC/9 of the adopted Local Plan.



## **Noise**

The site lies adjacent to the A10 High Street and the proposed dwellings would be sited in close proximity to this busy and noisy road. A Noise Assessment has been submitted as part of the application and the Environmental Health Officer has commented that they are happy with the submitted methodology and findings. They recommend that conditions are imposed to any approved application to ensure that windows are installed in accordance with the requirements of the Noise Assessment and the recommended 1.8 metre high boundary fence/wall to ensure the internal and external noise levels and amenity for residents is restricted.

The proposal would therefore accord with Policy HQ/1 of the adopted Local Plan.

## **Contamination**

The application has been accompanied by a Phase I and II Geo-Environmental Site Assessment. The site has been used as a restaurant, public house and car parking however there are a number of contaminants underground. As a result, given no remedial method statement has been submitted, the Contaminated Land Officer has requested a condition to require these details to be submitted should the application be approved.

The proposal would accord with Policy SC/11 of the adopted Local Plan.

## **Other Matters**

The Parish in their comments and a neighbour questioned if there is any affordable housing as part of the development. Policy H/10 of the Local Plan requires that all developments of 11 dwellings or sites of less than 11 units if the total floorspace of the proposed units exceeds 1,000m<sup>2</sup> will provide affordable housing. Given the scheme falls under this, there is no requirement for provision of affordable housing. The proposal would accord with Policy H/10 of the adopted Local Plan.

A neighbour raised in their comments concern regarding damage to adjacent properties as a result of the development. This is not a material planning consideration and legal matter.

A neighbour raised in their comments a planning agreement detailing planning obligations and provision of open space. Given the size of the development under 10 dwellings, this is not a requirement.

A neighbour in their comments mentioned the strip of land between the site and public highway which should be maintained by the applicant or management company as per the home owners who maintain this land already. This strip of land lies outside of the development site and therefore this is not a planning matter for consideration and a legal matter.

A neighbour has raised concern regarding the requirement for the dwellings to include offices and charging points for electric vehicles. Policy H/18 of the adopted Local Plan states that the partial conversion, extension or change of use of residential dwellings to enhance residents to work at or from part of the dwelling is permitted subject to certain criteria. There is no set policy which requires an area to be designated as home working. In regard to electric vehicles, Policy CC/3 of the adopted Local Plan requires proposals for new dwellings to reduce carbon emissions by a minimum of 10%. This would be added as a recommended condition should consent be granted.

## **Planning balance and conclusion**

Officers consider that the proposal, as amended, would reflect the character and visual amenity of the area. It is acknowledged that the site lies on a prominent corner and entrance into Harston. As a result, the proposed apartment building which lies on the corner has a design and appearance which addresses and accentuates the gateway location. The design and appearance of units 1-7 would also be appropriate to the context of the site. Planning conditions can be applied to secure details of external materials, fenestration and hard and soft landscaping amongst others, to ensure that the quality of development is taken through to completion in a manner which is fully compatible with its location.

For the reasons set out in this report, officers consider the proposal to be acceptable, on balance, in accordance with the relevant policies in the South Cambridgeshire Local Plan 2018.

## **Recommendation**

Officers recommend that the Planning Committee approves the application subject to conditions

## **Conditions**

- (a) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
(Reason - In accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
- (b) The development hereby permitted shall be carried out in accordance with the following approved plans: -  
1:1250 OS Location Plan  
P03 Rev. L Site Plan  
P04 Rev. F First Floor Site Plan  
P05 Rev. F Roof Plan  
P10 Rev. M Apartments Plans  
P12 Rev. E Units 1 to 3 Plans  
P13 Rev. E Units 4 & 5 Plans  
P14 Rev. F Units 6 & 7 Plans  
P20 Rev. A Elevation Details  
(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.
- (c) No development above slab level shall take place until details of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.  
(Reason - To ensure the appearance of the development is satisfactory in accordance with Policy HQ/1 of the South Cambridgeshire Local Plan 2018).
- (d) No development above slab level shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected at a scale of not less than 1:20. The boundary treatment for each dwelling shall be completed

before that 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 South Cambridgeshire Local Plan 2018 )

- (e) No development above slab level shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating details of all bin and cycle stores. Development shall be carried out in accordance with the approved details.  
(Reason - To ensure that the appearance of the site does not detract from the character of the area in accordance with Policy HQ/1 of the South Cambridgeshire Local Plan 2018 ).
- (f) No development above slab level shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include indications of all existing trees and hedgerows on the land and details of any to be retained, together with measures for their protection in the course of development. The details shall also include specification of all proposed trees, hedges and shrub planting, which shall include details of species, density and size of stock. (Reason - To ensure the development is satisfactorily assimilated into the area and enhances biodiversity in accordance with Policies HQ/1 and NH/4 of the South Cambridgeshire Local Plan 2018).
- (g) Prior to occupation a “lighting design strategy for biodiversity” features or areas to be lit shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall:
  - a) Identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
  - b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specification) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.  
(Reason -To minimise the effects of light pollution on biodiversity and the surrounding area in accordance with Policies NH/4, HQ/1 and SC/9 of the South Cambridgeshire Local Plan 2018).
- h) No development above slab level shall take place until a scheme of biodiversity enhancement has been submitted to the Local Planning Authority for its written approval. The scheme must include details as to how a positive net gain in biodiversity has been accomplished. The approved scheme shall be fully implemented within an agreed timescale unless otherwise agreed in writing.  
(Reason - To enhance ecological interests in accordance with Policies S/3, HQ/1 and NH/4 of the South Cambridgeshire Local Plan 2018).
- (i) All ecological measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Greenwillows Associates, December 2019) and Ecological Impact Assessment: Bats (Greenwillows Associates,

August 2020) as already submitted with the planning application and agreed in principle with the Local Planning Authority prior to determination.

(Reason - To enhance ecological interests in accordance with Policies S/3, HQ/1 and NH/4 of the South Cambridgeshire Local Plan 2018).

- (j) No development shall commence until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the Local Planning Authority:
1. A Preliminary Risk Assessment (PRA) including a Conceptual Site Model (CSM) of the site indicating potential sources, pathways and receptors, including those off site.
  2. The results of a site investigation based on (1) and a detailed risk assessment, including a revised CSM.
  3. Based on the risk assessment in (2) an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken. The strategy shall include a plan providing details of how the remediation works shall be judged to be complete and arrangements for contingency actions. The plan shall also detail a long term monitoring and maintenance plan as necessary.
  4. No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the remediation strategy in (3). The long term monitoring and maintenance plan in (3) shall be updated and be implemented as approved.
- (Reason -To protect and prevent the pollution of controlled waters from potential pollutants in line with Policies CC/7 and CC/8 and the Paragraphs 109 and 121 of the National Planning Policy Framework and the Environment Agency Groundwater Protection Policy.)
- (k) No further development shall commence if during development, contamination not previously identified is found to be present at the site, unless otherwise agreed in writing with the Local Planning Authority. The development shall be carried out until the developer has submitted a remediation strategy detailing how this unsuspected contamination shall be dealt with and obtained written approval from the Local Planning Authority. The remediation strategy shall be implemented as approved.
- (Reason -To protect and prevent the pollution of controlled waters from potential pollutants in line with Policies CC/7 and CC/8 and the Paragraphs 109 and 121 of the National Planning Policy Framework and the Environment Agency Groundwater Protection Policy.)
- (l) No development shall be commence until a surface water drainage scheme for the site, based on sustainable drainage principles and in accordance with South Cambs adopted Policy CC/7 Water Quality and Policy CC/8 Sustainable Drainage has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is occupied.
- The scheme shall be based upon the principles within the agreed Flood Risk and Drainage Strategy Report prepared by Ingleton Wood (ref: 111735) dated 6 October 2020 Second Issue and shall also include:
- a) Details of the existing surface water drainage arrangements including runoff rates for the QBAR, 3.3% Annual Exceedance Probability (AEP) (1 in 30) and 1% AEP (1 in 100) storm events;
  - b) 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 a schematic of how the system has been represented within the hydraulic model;

- c) Detailed drawings of the entire proposed surface water drainage system, including levels, gradients, dimensions and pipe reference numbers;
- d) A plan of the drained site area and which part of the proposed drainage system these will drain to;
- e) Full details of the proposed attenuation and flow control measures;
- f) 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;
- g) Full details of the maintenance/adoption of the surface water drainage system;
- h) Measures taken to prevent pollution of the receiving groundwater and/or surface water
- i) Formal agreement from Anglian Water for proposed discharge into existing foul sewer, including confirmation (and evidence where appropriate) that sufficient capacity is available.

The drainage scheme must adhere to the hierarchy of drainage options as outlined in the NPPF PPG

(Reason - To ensure that the proposed development can be adequately drained and to ensure that there is no increased flood risk on or off site resulting from the proposed development in accordance with Policies CC/7, CC/8 and CC/9 of the adopted Local Plan 2018.)

- (m) Details for the long term maintenance arrangements for the surface water drainage system (including all SuDS features) to be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of any of the buildings hereby permitted. The submitted details should identify runoff sub-catchments, SuDS components, control structures, flow routes and outfalls. In addition, the plan must clarify the access that is required to each surface water management component for maintenance purposes. The maintenance plan shall be carried out in full thereafter. (Reason - To ensure the satisfactory maintenance of drainage systems that are not publically adopted, in accordance with the requirements of paragraphs 163 and 165 of the National Planning Policy Framework and Policies CC/7, CC/8 and CC/9 of the adopted Local Plan 2018.)
- (n) Piling or any other foundation designs and investigation boreholes using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details. (Reason -To protect and prevent the pollution of controlled waters from potential pollutants in line with Policies CC/7 and CC/8 and the Paragraphs 109 and 121 of the National Planning Policy Framework and the Environment Agency Groundwater Protection Policy.)
- (o) Prior to first occupation of any of the proposed dwellings, the existing vehicular access to the application site shall be amended so that the current "Keep Clear" carriageway marking that covers the entire existing dropped kerb access be relocated so as to only cover the proposed development site entry and inbound half of the vehicular access. The drawing shall be submitted to the Highway Authority for approval prior to the determination of the application. (Reason - For the safe and effective operation of the public highway in accordance with Policy HQ/1 and Paragraph 108 of the National Planning Policy Framework.)
- (p) Two 2.0 x 2.0 metres pedestrian visibility splays shall be provided and shown on the drawings. The splays are to be included within the curtilage of the new development. This area shall be kept clear of all planting, fencing, walls exceeding 600mm high.

(Reason - To provide adequate inter-visibility between the users of the access and the existing public highway for the safety and convenience of users of the highway and of the access in accordance with Policy HQ/1 and Paragraph 108 of the National Planning Policy Framework.)

- (q) The proposed vehicular access shall be a minimum width of 5m, for a minimum distance of 5m measured from the near edge of the highway boundary and not carriageway edge.  
(Reason - To provide adequate vehicular access to allow two vehicles to pass in accordance with Policy HQ/1 and Paragraph 108 of the National Planning Policy Framework.)
- (r) Prior to the first occupation of the development any gate or gates to the vehicular access shall be set back a minimum of 5m from the near edge of the highway boundary and not carriageway edge. Any access gate or gates shall be hung to open inwards.  
(Reason - For the safe and effective operation of the public highway in accordance with Policy HQ/1 and Paragraph 108 of the National Planning Policy Framework.)
- (s) No demolition or construction works shall commence on site until a traffic management plan has been agreed with the 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 should be undertaken off the adopted public highway)  
ii. Contractor parking should be within the curtilage of the site and not on street.  
iii. Movements and control of all deliveries (all loading and unloading should be undertaken off the adopted public highway)  
iv. Control of dust, mud and debris, please note it is an offence under the Highways Act 1980 to deposit mud or debris onto the adopted public highway.  
The development shall be carried out in accordance with the approved details.  
(Reason - For the safe and effective operation of the public highway in accordance with Policy HQ/1 and Paragraph 108 of the National Planning Policy Framework.)
- (t) Apart from any top hung vent, the proposed first floor windows in the side (south east) elevations of Units 6 and 7 and the proposed small first floor bedroom window in the rear elevation of Unit 7 hereby permitted, shall be fitted with obscured glass (meeting as a minimum Pilkington Standard level 3 in obscurity) and shall be permanently fixed shut. The development shall be retained as such thereafter.  
(Reason - To prevent overlooking of the adjoining properties in accordance with Policy HQ/1 of the South Cambridgeshire Local Plan 2018).
- (u) The proposed rooflights in the side (south east) roof slope of Units 6 and 7 shall be set no lower than 1.7 metres above finished floor level.  
(Reason - To prevent overlooking of the adjoining properties in accordance with Policy HQ/1 of the South Cambridgeshire Local Plan 2018).
- (v) The flat roof areas of the development hereby permitted shall not be used as a balcony, roof garden or similar amenity area unless expressly authorised by planning permission granted by the Local Planning Authority in that behalf.  
(Reason - To safeguard the privacy of adjoining occupiers in accordance with Policy HQ/1 of the South Cambridgeshire Local Plan 2018).
- (w) 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 (first floor to

Unit 7) 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 – To safeguard the amenities of the neighbour in accordance with Policy HQ/1 of the adopted Local Plan 2018.)

- x) Prior to the first occupation of the development hereby permitted, windows with an Rw+Ctr value of 34dB must be installed in accordance with the requirements of the Environmental Noise Assessment Report provided by Stansted Environmental Services Limited (24<sup>th</sup> March 2020, Version 2) to ensure that the desired internal noise levels are achieved as stated within BS8233:2014. To meet the required rates of background ventilation without the need for windows to be opened, the inclusion of acoustically treated vents will also be required to the habitable rooms, as a minimum to allow for suitable air changes in the dwellings. Ventilator ducts with a Dn, e,W+Ctr reduction of 36dB will also be required to ensure the desired internal noise levels are achieved as stated within BS8233:2014.  
(Reason – To protect the amenity of perspective residents in accordance with Policies HQ/1 and SC/10 of the South Cambridgeshire Local Plan 2018).
- (y) Prior to the first occupation of Units 1 and 9, boundary treatment in the form of a dense 1.8 metre high close boarded fence or brick wall shall be installed to provide adequate protection for the private gardens closest to the A10. All gardens must be provided with the same boundary treatment as a matter of course to ensure compliance with BS8233:2014. The boundaries shall thereafter be retained in accordance with the approved details.  
(Reason – To protect the amenity of perspective residents in accordance with Policies HQ/1 and SC/10 of the South Cambridgeshire Local Plan 2018).
- (z) No construction site machinery or plant shall be operated, no noisy works shall be carried out and no construction related deliveries shall take place at or displaced from the site except between the hours of 0800 hours and 1800 hours on weekdays Monday to Friday 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).
- (ai) The hereby approved development shall not be occupied until the dwellings have been provided with infrastructure, including sockets, cabling and connection points, sufficient to enable 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, 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.)
- (bi) The hereby approved development shall not be occupied until the optional requirement for water consumption of 110 litres use per person per day for each dwelling in Part G of the Building Regulations 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.)

- (ci) The development hereby approved shall not proceed above base course level 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 hereby approved additional dwelling.  
(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 2019 that seeks to improve the sustainability of the development, support the transition to a low carbon future and promote a decentralised, renewable form of energy generation.)
- di) The development shall be carried out in accordance with the Tree Survey, Arboricultural Impact Assessment Preliminary Arboricultural Method Statement and Tree Protection Plan Revision A dated 22 April 2020 by Haydens Arboricultural Consultants unless otherwise agreed in writing by the Local Planning Authority. (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 Policy NH/4 of the adopted Local Plan 2018.)

### **Informatives**

- (a) 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.
- (b) The applicant proposes to discharge surface water drainage into existing Anglian Water foul sewer.  
We are unable to support the discharge of surface water into a foul water system. The only way we would reconsider this objection is if Anglian Water accepts in writing that the proposed discharge can be accommodated in their foul sewer network. In this instance that applicant has demonstrated in accordance with the suds hierarchy that:
- infiltration suds is not feasible due to high ground water levels
  - there is no nearby ordinary watercourse to discharge into
  - there is no nearby surface water or combined sewer to connect into
- Surface water runoff is proposed to be attenuated and discharged into Anglian Water foul water sewer at a rate of 2l/s.
- Anglian Water Pre-Planning Assessment Report referenced PPE-0101657 and dated 02/10/2020 states 'It is our understanding that the evidence to confirm compliance with the surface water hierarchy is not available. Once the evidence has been confirmed, then a connection point may be made to manhole 1701 in London Road at National Grid Reference NGR TL 43146 51716 at a rate of 2l/s'.
- (c) All surface water from roofs shall be piped direct to an approved surface water system using sealed downpipes. Open gullies should not be used. Only clean, uncontaminated surface water should be discharged to any soakaway, watercourse or surface water sewer.
- (d) Surface water from roads and impermeable vehicle parking areas shall be discharged via trapped gullies. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from lorry parks and/or



impermeable parking areas for fifty car park spaces or more and hardstandings should be passed through an oil interceptor designed compatible with the site being drained. Roof water shall not pass through the interceptor. Site operators should ensure that there is no possibility of contaminated water entering and polluting surface or underground waters.

- (e) Foul water drainage (and trade effluent where appropriate) from the proposed development should be discharged to the public foul sewer, with the prior approval of AWS, unless it can be satisfactorily demonstrated that a connection is not reasonably available. Anglian Water Services Ltd. should be consulted by the Local Planning Authority and be requested to demonstrate that the sewerage and sewage disposal systems serving the development have sufficient capacity to accommodate the additional flows, generated as a result of the development, without causing pollution or flooding. If there is not capacity in either of the sewers, the Agency must be reconferred with alternative methods of disposal.
- (f) Notwithstanding the provision of the Town and Country Planning General Permitted Development Order 1995 (or any order revoking or re-enacting that Order), any oil storage tank shall be sited on an impervious base and surrounded by oil tight bunded walls with a capacity of 110% of the storage tank, to enclose all filling, drawing and overflow pipes. The installation must comply with Control of Pollution Regulations 2001, and Control of Pollution (Oil Storage) Regulations 2001.

Site operators should ensure that there is no possibility of contaminated water entering and polluting surface or underground waters.

- (g) Opportunities should be provided for wildlife habitat enhancement through enlargement and/or appropriate management of existing habitats and through creation of new habitats.
- (h) Dewatering during construction: Any small scale dewatering in the course of building or engineering works which is greater than 20 cubic metres per day and does not meet the conditions of the groundwater abstraction exemption under Regulation 5 of the Water Abstraction and Impounding (Exemptions) Regulations 2017 will require an abstraction licence from the Environment Agency.
- (i) The Environment Agency assesses applications to abstract water against local water availability. In groundwater bodies where water is already fully committed, there is a presumption against issuing new consumptive groundwater licences. In the case of dewatering we consider a licence to be consumptive where the water cannot be returned locally to the aquifer. Whilst this may be deemed acceptable for short-term dewatering where water is returned to the environment, this would be assessed on a case-by-case basis. However, in such cases a consumptive groundwater licence may not be issued long-term and the applicant must ensure that any construction is engineered such that permanent dewatering will not be required. This is especially important if the development is proposing sub surface structures such as basements.

If you consider that dewatering may be necessary, please contact your local EA office at your earliest convenience or submit a pre-application to receive up to 15 hours of free preapplication advice. For more information visit:

<https://www.gov.uk/guidance/water-management-apply-for-a-water-abstraction-orimpoundment-licence#types-of-licence>. For more information on dewatering exemptions visit: <http://www.legislation.gov.uk/ukxi/2017/1044/regulation/5/made>  
For more information on resource availability visit:

<https://www.gov.uk/government/collections/water-abstraction-licensing-strategies-camsprocess> Controlled water includes stream, underground waters, reservoirs, estuaries and coastal waters.

### **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 Supplementary Planning Documents (SPDs)

### **Report Authors:**

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# Agenda Item 8



26 May 2021

**Report to:** South Cambridgeshire District  
Council Planning Committee

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

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## **20/02531/FUL– Home Farm, Home Cottage, High Street, Graveley**

Proposal: Barn replacement

Applicant: Mrs C Eayrs

Key material considerations: Principle of Development  
Heritage Impact  
Character/appearance of the area  
Other Matters

Date of Member site visit: None

Is it a Departure Application?: No

Decision due by: 28<sup>th</sup> May 2021 (extension of time agreed)

Application brought to Committee because: The application is for the demolition of a listed building or a Building of Local Interest

Presenting officer: Tom Gray, Senior Planning Officer

### **Executive Summary**

1. The application site is located outside the Graveley Development Framework. The site is within Flood Zone 1 (low risk). A public right of way (PROW) runs adjacent to the application site.
2. The existing barn, considered to be a curtilage listed building to the host Farmhouse and a non-designated heritage asset, has now been largely dismantled on health and safety grounds.
3. Following a formal consultation with the Council's Conservation Officer, it is

considered that the harm to the curtilage listed building is 'minor' 'less than substantial' due to the re-use of salvageable historic fabric from the barn, its replacement on the same footprint and the use of appropriate matching materials. In this instance, Officers consider that any 'less than substantial harm' to this heritage asset is outweighed by the public benefits including ensuring its optimum future viable use.

4. Following a formal consultation with the Council's Conservation Officer, given the re-instatement of the traditional agrarian form, use of matching materials and the re-use of any salvageable historic materials, subject to the timescale condition as agreed with the agent, Officers consider that the replacement barn would result in a positive contribution to the setting of the host listed building.
5. Officers consider that the proposal would not harm the character and appearance of the local area.
6. Subject to condition, Officers consider that the proposed development would not result in significant harm to the amenities of neighbouring properties.
7. Following a formal consultation with the Council's Ecology Officer and taking into account the dismantling of the barn above plinth level, subject to a scheme of biodiversity enhancement and lighting condition, Officers consider that the proposed development would not result in harm to protected species or habitats.
8. Officers consider that, subject to conditions, the proposed development accords with national and local planning policies.

### **Relevant planning history**

9. S/4717/18/FL & S/4739/18/LB – Demolish existing timber barn and rebuild to match existing – Applications withdrawn
10. S/1535/19/FL – Demolish existing dilapidated barn and rebuild to match existing – Application withdrawn

### **Planning policies**

#### **National Planning Policy**

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

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

12. 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 Principles  
NH/4 Biodiversity  
NH/14 Heritage Assets  
SC/9 Lighting Proposals  
CC/6 Construction Methods  
CC/7 Water Quality  
CC/8 Sustainable Drainage Systems  
CC/9 Managing Flood Risk

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

13. District Design Guide – Adopted March 2010  
Sustainable Design and Construction SPD – Adopted January 2020  
Listed Buildings: works to or affecting the setting of SPD – Adopted July 2009  
Biodiversity – Adopted January 2009

### **Consultation**

14. **Graveley Parish Council** – No comments received (out of time).
15. **Council's Conservation Officer** – Comments made on 18<sup>th</sup> November 2020:

20/02532/LBC:

- This application follows a previous one and subsequent pre app report following a site meeting. The current proposal description is somewhat misleading since the works are intended to reinstate as far as possible the existing barn and replace the rear access approach to the farmhouse. As the farm house is Grade II listed and the adjacent barn is considered to be curtilage listed, the heritage statement should cover the 5 step approach to assessment outlined in Historic England's Historic Environment Good Practice Advice in Planning Note 3 The Setting of Heritage Assets.
- Subsequent to the submission of the applications, adverse weather conditions resulted in the barn becoming a safety issue and officers agreed that the dangerous elements should be taken down, identified in relation to the structural engineer's survey and stored safely for possible reuse.
- The heritage statement initially submitted does not provide sufficient information as required in paragraph 189 of the NPPF nor sufficient justification for the reduction in length of the barn or the revised stepped access arrangement to the rear door to the farmhouse as required to mitigate for the harm caused by the reduction in length of the barn under paragraph 196.
- Taking the above into account and applying the precautionary conservation principle, it is considered that the proposal will adversely affect the character of the Listed Building. The proposals will not comply with Local Plan policy NH/14. With reference to the NPPF and the effect on the significance of the heritage asset, paragraphs 189,193 &196 would apply. Within the broad

category “less than substantial harm”, the extent of the harm is considered to be minor.

20/02531/FUL

- The impact on the Graveley Conservation Area though limited as Home Farm is located beyond its eastern boundary has not been considered in the heritage Statement.
- The impact on the setting of the Listed Building has not been identified in the Heritage Statement. Taking the above into account, it is considered that the proposal will not preserve or enhance the character or appearance of the conservation area. Will be detrimental to the setting of the Listed building. Will not comply with Local Plan policy NH/14. With reference to the NPPF and the effect on the significance of the heritage asset, paragraphs 189 & 196 would apply.
- Conditions: N/A
- Comments made on 31<sup>st</sup> March 2021: In view of the recent amendments, namely review/pre-demolition report and clarification that the replacement barn is on the same footprint as the existing, received in respect of the above applications, comment as follows:
  - The reversion to the original barn’s size requires a reconsideration of previous pre-app comments relating to such a proposal.
  - It is understood that the existing barn due to safety concerns has been taken down on the understanding that its elements would be identified and safely stored for potential reuse. There is no evidence that this has taken place. The information submitted is somewhat confusing as the proposed layout drawing suggests beam(s) and associated post(s) is/are intended to be reused as one of three internal frame element which are to be tied to a new structural framework.
  - Whilst a structural engineer has been involved with the project and has attended at a previous site meeting, the structural engineers updated report, whilst referred to in the now submitted Heritage Statement prepared by Greenhayes Planning Ltd has not also been submitted in connection with the amendments nor any detailed drawings outlining the new framework proposed, which though described as like-for-like would differ due to the need to meet present day structural calculations requirements.
- Comments made on 13<sup>th</sup> April 2021: In the light of the amendments, suggest the applications now be taken forward on the basis of a rebuilt like for like barn as now proposed and reusing as much salvaged material as possible (as also proposed). The rebuilding of an appropriately clad and roofed barn would be a beneficial mitigation of the harm to the setting of the Listed building from the loss of the original.
- Conditions would need to be sufficient to secure the use of appropriate materials.

16. **Historic England –**

- No comments offered. Seek advice from specialist conservation and archaeological advisers.

## 17. Council's Ecology Officer

- Comments made on 25<sup>th</sup> June 2020: The submitted Protected Species Ecology Survey (JD Ecology, February 2019) states that further bat surveys are required. No further surveys have been submitted. **Holding objection.**
- Comments made on 20<sup>th</sup> August 2020: A Bat Roost Assessment Report (JD Ecology, July 2019) has been submitted. One bat emergence survey was completed as the building was reassessed to be of low bat roost potential based on its deteriorating condition. This approach is acceptable.
- No evidence of roosting bats was found despite a small number of both pipistrelle and long-eared bat droppings (although no individual bats) being found in February 2019. Based on the photographs provided in the Bat Roost Assessment Report as well as other supporting documents including the Design and Access and Heritage Statement and Structural Report, the building appears to have deteriorated significantly since the assessment in February 2019. The building is now of very limited suitability for roosting bats due to lack of roof covering. It is reasonable to assume that this is based on increased dilapidation rather than removal based on submitted photographs (appears unstable in photographs dated May 2020).
- In previous communication, Natural England have confirmed that they would usually expect a licence application to be submitted if there has been evidence of roosting bats within the past 2-3 years, even if there is no evidence of use as present. As highlighted by the consultant in Bat Roost Assessment Report, a roost is protected by law even if bats are not present at the time of works. Unusually in this case, the roosts appear to be likely to have been lost/modified already due to the deterioration of the building. Therefore, I do not consider that a place of rest or shelter for bats will be lost as a result of the proposals, unless evidence is unexpectedly discovered during the pre-works inspection as detailed under the non-licensed method statement in Section 4.3 of the Bat Roost Assessment Report. The bats appear to have been displaced into nearby buildings as evidenced in the report. A Natural England licence will need to be sought if bats are unexpectedly found as set out in the recommendations.
- In addition, Favourable Conservation Status will need to be maintained through inclusion of integrated bat roost features. The proposals for bat roost features set out in Section 4.3 and Page 25 of the Report are acceptable and will need to be secured through a condition if consent is granted. A nesting feature for little owl should also ideally be included within the landholding.
- Please attach appropriately worded conditions to cover the following to any consent granted: **Bat Mitigation and Compliance Report.** The development hereby permitted shall be carried out only in strict accordance with the methodology in Section 4.3 of Bat Roost Assessment Report (JD Ecology, July 2019). Any amendment shall be approved in writing by the Local Planning Authority. A report produced by a suitably qualified ecologist confirming and demonstrating implementation of the recommendations together with photographic evidence of compensatory habitat features, shall be submitted to the local planning authority and

approved in writing within six months of completion of the works. Reason: To demonstrate compliance with the Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife and Countryside Act 1981 (as amended) and to provide biodiversity net gain in accordance with the Adopted South Cambridgeshire District Council Local Plan Policy NH/4 and Biodiversity SPD.

- External lighting should also be carefully designed due to the rural location, so please attach the following condition: **Lighting**. 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 before installation by the local planning authority. 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 and to protect nearby wildlife habitat.

- Comments on 6<sup>th</sup> April 2021: No further comments.

18. **Local Highways Authority** – Comments made on 23<sup>rd</sup> June 2020 & 24<sup>th</sup> March 2021: No significant adverse effect upon public highway.

19. **Environmental Health Officer** – Recommends following conditions:  
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 0800-1800 Monday to Friday, 0800-1300 Saturday and not at any time on Sundays or Bank or Public holidays.

Reason: To protect the amenity of the locality, especially for people living and/or working nearby, in accordance with local planning policy

There shall be no burning of any waste or other materials on the site, without prior consent from the Environment Agency. A D7 exemption registered with the Environment agency is required.

Reason: To ensure nuisance is not caused to local residents.

Recommends informatives with regards air source heat pumps and noise and disturbance to neighbouring residents.

20. **Council's Sustainable Drainage Engineer** – Comments made on 23<sup>rd</sup> June 2020: Acceptable subject to following condition:

Prior to commencement of development a scheme for the disposals of surface water that can be maintained for the lifetime of the development shall be provided to and agreed in writing with the local planning authority.  
All external areas should utilise permeable surfaces.

Comments made on 24<sup>th</sup> March 2021: Previous comments still stand.

21. **Anglian Water** – No comments offered. Applicant should check for any Anglian



Water assets which crosses or are within close proximity to the site. Permission will be required if diverting or crossing over any assets.

22. **Asset Information Definitive Map Officer** – Whilst the Definitive Map Team has no objection to the proposal, we would point out the following which you may wish to include as informatives on any permission granted.

Public Bridleway No. 8 Graveley must remain open and unobstructed at all times. Building materials must not be stored on Public Rights of Way and contractors' vehicles must not be parked on it (it is an offence under s 137 of the Highways Act 1980 to obstruct a public Highway).

Landowners are reminded that it is their responsibility to maintain boundaries, including trees, hedges, and fences adjacent to Public Rights of way, and that any transfer of land should account for any such boundaries (s154 Highways Act 1980).

The granting of planning permission does not entitle a developer to obstruct a Public Right of Way (Circular 1/09 para 7.1).

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

23. None received.

## **The site and its surroundings**

24. The application site is located outside the Development Framework and within the countryside. The barn is considered to be curtilage listed to the listed host dwelling of Home Farmhouse, No.126 High Street, a detached Grade II listed farmhouse, believed to date from the 17<sup>th</sup> Century (List Entry: 1226491). Through the application process, the building has been identified as a non-designated heritage asset due to its positive contribution to the historical farmstead. The application site is adjacent to a public right of way (PROW) that runs from High Street to the north and runs west of the barn which is subject of this application. The application site is within Flood Zone 1.

## **The proposal**

25. The application seeks planning permission for the demolition of the existing barn and its replacement. The scheme has been amended to ensure that the barn would replace the existing barn on the same footprint (rather than the shortened length as originally proposed).

## **Planning Assessment**

### **Key Issues**

26. The key issues to consider in the determination of this application are the principle of development, heritage impact, impact upon the character and appearance of the local area, residential amenity, ecology impacts and other matters.

### **Principle of Development**

27. Policy S/7 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.
28. In this instance, the current use of the barn is in connection with the agricultural use of the farm. Given that the development is for a replacement of an existing barn and would not involve a change of use, the proposed development is acceptable in principle in accordance with Policy S/7 of the Local Plan.

### **Impact upon Heritage Assets**

#### Policy Context

29. Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990 requires decision-makers to, in considering whether to grant planning permission for development which affects a listed building or its setting, have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
30. Chapter 16 of the National Planning Policy Framework (NPPF) 2019 focuses on conserving and enhancing the historic environment.
31. Paragraph 189 of the NPPF 2019 states that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary.
32. Paragraph 190 of the NPPF states that Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the

heritage asset's conservation and any aspect of the proposal.

33. Paragraph 191 states that where there is evidence of deliberate neglect of, or damage to, a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision.
34. Paragraph 193 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
35. Paragraph 194 states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
36. Paragraph 195 states that where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:
  - a) the nature of the heritage asset prevents all reasonable uses of the site; and
  - b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
  - c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
  - d) the harm or loss is outweighed by the benefit of bringing the site back into use.
37. Paragraph 196 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
38. Paragraph 197 states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. 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.
39. Paragraph 198 states that Local planning authorities should not permit the loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred.
40. At a local level, chapter 6 of the South Cambridgeshire Local Plan 2018 deals with protecting and enhancing the natural and historic environment.

41. Policy NH/14 of the Local Plan states that development proposals will be supported when they sustain and enhance the significance of heritage assets, including their settings, such as (c) designated heritage assets, i.e. listed buildings and (d) non-designated heritage assets
42. Paragraph 6.51 of Policy NH/14 states that finding viable uses which sustain rather than compromise the significance of historic buildings is fundamental to conservation (though not possible for all buildings).
43. Policy HQ/1 of the Local Plan requires all new development to make a positive contribution to its local and wider context. Development proposals should, appropriate to their scale and nature, conserve or enhance important natural and historic assets and their setting (criterion 1d).

### **Impact upon the curtilage listed building (heritage asset and non-designated heritage asset)**

#### *Curtilage status*

44. The Planning (Listed Buildings and Conservation Areas) Act 1990, Section 1(5) says that the listed building also includes any ancillary object or structure within the curtilage of the building, which forms part of the land and has done so since before 1st July 1948.
45. The Historic England Listed Buildings and Curtilage Historic England Advice Note 10 states that understanding curtilage rests on the particular facts of each case. It will be for the local planning authority to reach a conclusion as to whether or not buildings are within a particular curtilage.
46. The courts have said that there are three key factors to be taken into account in assessing whether a structure or object is within the curtilage of a listed building:
  - the physical layout of the listed building and the structure
  - their ownership, both historically and at the date of listing
  - the use or function of the relevant buildings, again both historically and at the date of listing.
47. The application site consists of Home Farmhouse, first listed in 1962. Ancillary structures within the historic farmyard, some of which including the current barn (Black barn) pre-dated this listing. It is understood that the barn and farmhouse have not been under separate ownership from each other. The current use of the land is partly residential with the barns within the farmyard in working agricultural use, and within the same ownership/use of the applicant. It is understood that this has not changed since its first listing. Given that this is the case and taking into account the barn's close proximity to the side door of the dwelling and no physical boundary treatments separating these from the host dwelling, following formal consultations with the Council's Conservation Officers in this current application (in addition to previous applications and pre-applications), the barn is

considered by Officers to be curtilage listed to Home Farmhouse (List Entry: 1226491).

48. Notwithstanding the above matter, an application has been prepared and submitted as both a planning application and listed building consent application and shall be assessed on the basis of its curtilage listed building status.

#### *Site History Context*

49. The proposed replacement of the existing barn has been subject of previous pre-application discussions, Conservation Officer advice and several planning applications over the course of the last five years.
50. In early 2016, a structural engineers report suggested that despite limited repairs, for health and safety reasons, in their opinion, the barn should be taken down. In 2019, another structural engineers report suggested that the retention of the building framing would neither be practical nor appropriate.
51. Conservation Officer advice in 2016 and early 2019 recommended that the building be repaired, if at all possible, and details of repairs be provided to the satisfaction of the LPA. Officers recognised the urgency of the matter and encouraged the applicant to provide temporary support to safeguard the structure and prevent further movement, including a protective covering to the exterior to avoid further water ingress and deterioration of the fabric, as a short-term measure.
52. During an on-site meeting in autumn 2019 under pre-application PRE/0305/19, it was noted how noticeably the barn had deteriorated. Given its proximity to the public bridleway and lack of viable internal use, it was considered that the dismantling and rebuild of the barn could be supported provided that sufficient heritage justification be provided and that any existing materials salvaged where possible.
53. Following this pre-app response and due to adverse weather conditions during the spring of 2020, the building suffered a major structural failure. Meanwhile a planning and listed building application was submitted. Following advice from the Council's Conservation Officer and in consultation with the building control department, it was advised that although necessary for the structure to be dismantled, any dismantling of the barn be done in such a way so that the framework be reassembled as far as possible in its original form with the elements taken down covered in a manner to avoid further harm.
54. The current application was submitted and following a consultation with the Council's Conservation Officer, an updated heritage statement was required. In addition, during the course of the application, amended plans were submitted to show that the barn would now replace the existing like for like on the same footprint (rather than the shortened length as originally proposed).

*Assessing the impact on the heritage asset and upon the host heritage asset*

55. The proposal is for the demolition of the barn and its replacement on the same footprint as the existing. A large part of the building has been dismantled and some materials set aside for future re-use where possible. The current building has no roof structure and the timber frame has been dismantled due to rot, insect infestation and its overall poor condition. The concrete floor and brick plinth is also in a poor state of repair and is all that is remaining of the barn.
56. The barn has undergone several alterations over the years with a high degree of modern changes including machine cut timbers and a concrete floor.
57. A dilapidated shed attaching the barn to Home Cottage to the south of the site has been demolished. Given that this is a later addition and lacks architectural merit, there is no objection to demolition of this element.
58. Whilst previous Conservation Officer advice encouraged the repair of the current building, upon the 2019 pre-application site visit, it was considered that the deterioration of the building was such that a replacement building could be supported where sufficient heritage justification and reuse of historic materials could be provided.
59. The proposed barn replacement would consist of a timber frame, clad with black weatherboarding. The brick plinth would match the existing house with the existing roof covering and two cross beams retained where possible.
60. Previous Officers encouraged the stabilisation of the barn and favoured repair over replacement and it is understood that additional timber work was added following the pre-application meeting in 2016 to adhere to the Conservation Officer's advice. However, further structural surveys have demonstrated that the barn is beyond repair. Therefore, on this basis, it is considered that the barn has not suffered from any deliberate neglect and therefore Paragraph 191 would not apply in this instance. The current condition subject to sufficient mitigation should therefore be a starting place in this application's assessment.
61. Taking into account the condition of the barn's structure and following a formal consultation with the Council's Conservation Officer, it is considered that the retention of salvageable materials would ensure that as much usable historic fabric of the original building is preserved, (noting that much of the building's fabric has involved the use of modern materials from the 20<sup>th</sup> Century) and any harm to the overall significance of this curtilage listed building and non-designated heritage asset would be minor in this instance. Therefore, it is considered that great weight has been given to the asset's conservation in this instance and would comply with Policy NH/14 of the Local Plan and Paragraph 193 of the NPPF 2019.
62. Whilst it is considered that 'less than substantial harm' upon this curtilage listed building and non-designated heritage asset would result from the loss of this original building, taking into account its poor condition and mitigation through

the re-use of salvageable materials by condition, the harm would be 'minor' in this instance.

63. Whilst the scale of the loss is considered to be 'minor' 'less than substantial Harm', Paragraph 196 of the NPPF 2019 is engaged, and harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
64. Due to its condition, the existing barn is currently unusable for agricultural storage. The plan form of the existing building would be re-instated in addition to two sets of timber double doors proposed on the farmyard side to allow for vehicular access. This is considered to enable the future optimum viable agricultural use of the barn.
65. Taking into account the barn's poor condition and limited loss of historic fabric, it is considered that the minor harm in this instance is outweighed by the future optimum viable use of this building and its positive contribution to the local economy and the restoration of this cultural element into the rural landscape. Therefore, the public benefits including securing its optimum viable use is considered to outweigh any harm to the curtilage listed barn and the proposal would comply with Paragraph 196 of the NPPF 2019.
66. Given the traditional agrarian form, use of matching materials, the re-instatement of the original plan form and the re-use of any salvageable historic materials, it is considered that the replacement barn would result in a positive contribution to the setting to the host listed building. In accordance with Paragraph 198 of the NPPF, to avoid total loss of this heritage asset and significant harm to the setting of this host listed building, it is considered reasonable and necessary that a condition be attached to any consent granted to ensure that following demolition, the construction of the replacement barn commences in a reasonable timescale. In this instance, the length of this timescale (within 12 months of complete demolition) has been agreed with the agent.
67. Subject to the above conditions, it is considered that the building would restore the historic farmstead layout and preserve the setting of the Listed Building in accordance with Policy NH/14 of the Local Plan and the NPPF 2019.

### **Impact upon the rural character and appearance of the area**

68. The proposed replacement barn would ensure that the traditional agrarian form and footprint of a building adjacent to the public right of way is maintained and the farmstead's value to the character and appearance of the surrounding countryside is preserved.
69. Therefore, the proposal would preserve the local rural area and conserve historic assets and their setting in accordance with Policy HQ/1 of the Local Plan.

## **Residential Amenity**

70. Given the considerable distance from nearby residential properties and the nature of the proposal that would consist of a like-for-like structure being built, it is not considered that the proposal would result in significant overlooking, overbearing or loss of light impacts upon nearby residential amenities in accordance with Policy HQ/1 of the Local Plan.
71. The Council's Environmental Health Officer has been consulted as part of this application. The recommended condition relating to noisy works and an informative regarding the burning of waste are considered reasonable and necessary to ensure that nearby residents are not negatively impacted by the proposed development in accordance with Policy CC/6 of the Local Plan.

## **Ecological impacts**

72. During the course of the application and in response to the Council's Ecology Officer's holding objection, the applicant has provided a further bat report demonstrating that one bat emergence survey was completed prior to dismantling the barn on health and safety grounds.
73. Following comments from the Council's Ecology Officer on the 14<sup>th</sup> August 2020 and based on the building's deteriorating condition that necessitated the dismantling of the dangerous structure during the spring of 2020, it is considered that the building was of very limited suitability for roosting bats.
74. Given that the roosts appear to be likely to have been lost/modified already due to the deterioration of the building, it is not considered that a place of rest or shelter for bats was lost as a result of the proposed demolition of the barn.
75. Whilst the Council's Ecology Officer has recommended that the submitted Bat Mitigation and Compliance Report be conditioned as a part of any permission granted, the barn has been dismantled to plinth level and therefore this condition is no longer necessary. However, to ensure biodiversity net gain, it is considered necessary and reasonable that a scheme of ecological enhancement be provided to the LPA prior to construction of the replacement barn above slab level. Subject to this condition, the proposed replacement barn is considered to be in accordance with Policy NH/4 of the Local Plan and the Biodiversity SPD 2009.
76. In addition, due to the application site's rural location, it is considered reasonable and necessary that any external lighting should also be carefully designed and a condition be attached on any permission granted requesting that no external lighting 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. Subject to this condition, the proposal is in accordance with Policy SC/9 and NH/4 of the Local Plan.

## **Other Matters**



77. The application site is located within Flood Zone 1 (low risk). Whilst the Council's Drainage Engineer has recommended a condition in relation to surface water be conditioned on any planning consent granted, given that the applicant has indicated that the surface water will be discharged via a soakaway and the like-for-like replacement building proposed, it is not reasonable for this condition to be attached in this instance, particularly given the minor scale of development.
78. No objections from the Local Highways Authority have been received on this application with regards impacts on highways safety.
79. Following a formal response from the Asset Information Definitive Map Officer, it is considered that the recommended informatives to avoid the storage of materials and contractor vehicles on the Public Right of Way, the maintenance of the boundaries and no obstruction of the public bridleway will be attached on any permission granted.
80. Upon the request of Officers, the agent has submitted a revised site location plan showing the area of development and access within the red line of the site. The area bounded in blue is within the applicant's ownership. Given the reduction in the red line boundary and no change to the extent of the land controlled by the applicant, it is not considered necessary for re-consultation to take place in this instance.
81. For the avoidance of doubt, an informative will be attached on any permission granted to ensure that the use of the replacement barn is for agricultural use only. Any change of use would require a separate planning application.
82. Due to the current Covid-19 restrictions a site visit by the Planning Committee Members has not been undertaken.

## **Planning balance and conclusion**

83. For the reasons set out in this report and having taken all relevant material considerations into account, it is considered that planning permission should be granted in this instance.

## **Recommendation**

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

## **Conditions**

- 1) 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.

Existing & Proposed Location & Site Plan PL01 Revision B  
Proposed Layout and Elevations PL03 Revision A  
Proposed Layout PL04 Revision 0

- 2) Unless otherwise agreed in writing by the Local Planning Authority, the rebuild of the replacement barn, hereby permitted, shall commence within 12 months of the complete demolition of the existing barn.

Reason: To avoid harm to the special interest of the host listed building and to ensure the retention and re-use of historic fabric in accordance with policy NH/14 of the South Cambridgeshire Local Plan 2018 and the NPPF 2019.

- 3) No construction or demolition work shall be carried out and no plant or power operated machinery operated other than between the following hours: 0800 hours and 1800 hours on Monday to Friday, 0800 hours and 1300 hours on Saturday and at no time on Sundays, Bank or Public Holidays, , unless otherwise previously agreed in writing with the Local Planning Authority.

Reason: To protect the amenity of the adjoining properties in accordance with Policy CC/6 of the South Cambridgeshire Local Plan 2018.

- 4) Prior to any construction of the replacement barn above slab level, a scheme of ecological enhancement shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include compensatory habitat features. The scheme 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.

Reason: To conserve and enhance ecological interests in accordance with Policies HQ/1 and NH/4 of the South Cambridgeshire Local Plan 2018.

- 5) 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 before installation by the local planning authority.

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 and to protect nearby wildlife habitat.

- 6) The materials to be used in the external construction of the development, hereby permitted, shall re-use existing salvageable materials as specified on the plans and as described in the supporting heritage statement.

Reason: To ensure that where possible the historic fabric is preserved in accordance with Policy NH/14 of the South Cambridgeshire Local Plan 2018.

## **Informatives**

- 1) There shall be no burning of any waste or other materials on the site, without prior consent from the Environment Agency. A D7 exemption registered with the Environment agency is required.

Reason: To ensure nuisance is not caused to local residents

- 2) Public Bridleway No. 8 Graveley must remain open and unobstructed at all times. Building materials must not be stored on Public Rights of Way and contractors' vehicles must not be parked on it (it is an offence under s 137 of the Highways Act 1980 to obstruct a public Highway).
- 3) Landowners are reminded that it is their responsibility to maintain boundaries, including trees, hedges, and fences adjacent to Public Rights of way, and that any transfer of land should account for any such boundaries (s154 Highways Act 1980).
- 4) The granting of planning permission does not entitle a developer to obstruct a Public Right of Way (Circular 1/09 para 7.1).
- 5) For the avoidance of doubt, the replacement barn, hereby permitted, shall be used for agricultural purposes only.

## **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)

## **Report Author:**

Tom Gray – Senior Planning Officer  
Telephone: 07704 018476

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# Agenda Item 9



26 May 2021

**Report to:** South Cambridgeshire District  
Council Planning Committee

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

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## **20/02532/LBC– Home Farm, Home Cottage, High Street, Graveley**

Proposal: Barn replacement

Applicant: Mrs C Eayrs

Key material considerations: Heritage Impact on curtilage listed building

Date of Member site visit: None

Is it a Departure Application?: No

Decision due by: 28<sup>th</sup> May 2021 (extension of time agreed)

Application brought to Committee because: The application is for the demolition of a listed building or a Building of Local Interest

Presenting officer: Tom Gray, Senior Planning Officer

### **Executive Summary**

1. The application site is located outside the Graveley Development Framework. The site is within Flood Zone 1 (low risk). A public right of way (PROW) runs adjacent to the application site.
2. The existing barn, considered to be a curtilage listed building to the host Farmhouse and a non-designated heritage asset, has now been largely dismantled on health and safety grounds.
3. Following a formal consultation with the Council's Conservation Officer, it is considered that the harm to the curtilage listed building is 'minor' 'less than substantial' due to the re-use of salvageable historic fabric from the barn, its replacement on the same footprint and the use of appropriate matching

materials. In this instance, Officers consider that any 'less than substantial harm' to this heritage asset is outweighed by the public benefits including ensuring its optimum future viable use.

4. Officers consider that, subject to conditions, the proposed development accords with national and local planning policies.

## **Relevant planning history**

5. S/4717/18/FL & S/4739/18/LB – Demolish existing timber barn and rebuild to match existing – Applications withdrawn
6. S/1535/19/FL – Demolish existing dilapidated barn and rebuild to match existing – Application withdrawn

## **Planning policies**

### **National Planning Policy**

7. National Planning Policy Framework (NPPF) – February 2019  
National Planning Practice Guidance (NPPG)  
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  
HQ/1 Design Principles  
NH/14 Heritage Assets

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

9. District Design Guide – Adopted March 2010  
Listed Buildings: works to or affecting the setting of SPD – Adopted July 2009

## **Consultation**

10. **Graveley Parish Council** – No comments received (out of time).
11. **Council's Conservation Officer** – Comments made on 18<sup>th</sup> November 2020:

20/02532/LBC:

- This application follows a previous one and subsequent pre app report following a site meeting. The current proposal description is somewhat misleading since the works are intended to reinstate as far as possible the existing barn and replace the rear access approach to the farmhouse. As the

farm house is Grade II listed and the adjacent barn is considered to be curtilage listed, the heritage statement should cover the 5 step approach to assessment outlined in Historic England's Historic Environment Good Practice Advice in Planning Note 3 The Setting of Heritage Assets.

- Subsequent to the submission of the applications, adverse weather conditions resulted in the barn becoming a safety issue and officers agreed that the dangerous elements should be taken down, identified in relation to the structural engineer's survey and stored safely for possible reuse.
- The heritage statement initially submitted does not provide sufficient information as required in paragraph 189 of the NPPF nor sufficient justification for the reduction in length of the barn or the revised stepped access arrangement to the rear door to the farmhouse as required to mitigate for the harm caused by the reduction in length of the barn under paragraph 196.
- Taking the above into account and applying the precautionary conservation principle, it is considered that the proposal will adversely affect the character of the Listed Building. The proposals will not comply with Local Plan policy NH/14. With reference to the NPPF and the effect on the significance of the heritage asset, paragraphs 189,193 &196 would apply. Within the broad category "less than substantial harm", the extent of the harm is considered to be minor.

20/02531/FUL

- The impact on the Graveley Conservation Area though limited as Home Farm is located beyond its eastern boundary has not been considered in the heritage Statement.
- The impact on the setting of the Listed Building has not been identified in the Heritage Statement. Taking the above into account, it is considered that the proposal will not preserve or enhance the character or appearance of the conservation area. Will be detrimental to the setting of the Listed building. Will not comply with Local Plan policy NH/14. With reference to the NPPF and the effect on the significance of the heritage asset, paragraphs 189 & 196 would apply.
- Conditions: N/A
- Comments made on 31<sup>st</sup> March 2021: In view of the recent amendments, namely review/pre-demolition report and clarification that the replacement barn is on the same footprint as the existing, received in respect of the above applications, I would comment as follows:
  - The reversion to the original barn's size requires a reconsideration of previous pre-app comments relating to such a proposal which will occur, in any event, due my absence and the applications' reallocation to another member of the Historic Environment team. who will no doubt review the matter afresh.
  - I understand that the existing barn due to safety concerns has been taken down on the understanding that its elements would be identified and safely stored for potential reuse. There is no evidence that this has taken place. The information submitted is somewhat confusing as the proposed layout drawing suggests beam(s) and associated post(s) is/are intended to be reused as one of three internal frame element which are to be tied to a new structural

framework.

- Whilst a structural engineer has been involved with the project and has attended at a previous site meeting, the structural engineers updated report, whilst referred to in the now submitted Heritage Statement prepared by Greenhayes Planning Ltd has not been also been submitted in connection with the amendments nor any detailed drawings outlining the new framework proposed, which though described as like-for-like would differ due to the need to meet present day structural calculations requirements.
- Comments made on 13<sup>th</sup> April 2021: In the light of the amendments that Judith notes in the comments below, I suggest the applications now be taken forward on the basis of a rebuilt like for like barn as now proposed and reusing as much salvaged material as possible (as also proposed). The rebuilding of an appropriately clad and roofed barn would be a beneficial mitigation of the harm to the setting of the Listed building from the loss of the original.
- Conditions would need to be sufficient to secure the use of appropriate materials.

**12. Historic England –**

- No comments offered. Seek advice from specialist conservation and archaeological advisers.

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

13. None received.

## **The site and its surroundings**

14. The application site is located outside the Development Framework and within the countryside. The barn is considered to be curtilage listed to the listed host dwelling of Home Farmhouse, No.126 High Street, a detached Grade II listed farmhouse, believed to date from the 17<sup>th</sup> Century (List Entry: 1226491). Through the application process, the building has been identified as a non-designated heritage asset due to its positive contribution to the historical farmstead. The application site is adjacent to a public right of way (PROW) that runs from High Street to the north and runs west of the barn which is subject of this application. The application site is within Flood Zone 1.

## **The proposal**

15. The application seeks listed building consent for the demolition of the existing barn and its replacement. The scheme has been amended to ensure that the barn would replace the existing barn on the same footprint (rather than the shortened length as originally proposed).



## Planning Assessment

### Key Issues

16. The key issues to consider in the determination of this application is the heritage impact upon the curtilage listed building.

### Impact upon Heritage Assets

#### Policy Context

17. Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990 requires decision-makers to, in considering whether to grant planning permission for development which affects a listed building or its setting, have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
18. Chapter 16 of the National Planning Policy Framework (NPPF) 2019 focuses on conserving and enhancing the historic environment.
19. Paragraph 189 of the NPPF 2019 states that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary.
20. Paragraph 190 of the NPPF states that Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.
21. Paragraph 191 states that where there is evidence of deliberate neglect of, or damage to, a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision.
22. Paragraph 193 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

23. Paragraph 194 states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
24. Paragraph 195 states that where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:
  - a) the nature of the heritage asset prevents all reasonable uses of the site; and
  - b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
  - c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
  - d) the harm or loss is outweighed by the benefit of bringing the site back into use.
25. Paragraph 196 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
26. Paragraph 197 states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. 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.
27. Paragraph 198 states that Local planning authorities should not permit the loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred.
28. At a local level, chapter 6 of the South Cambridgeshire Local Plan 2018 deals with protecting and enhancing the natural and historic environment.
29. Policy NH/14 of the Local Plan states that development proposals will be supported when they sustain and enhance the significance of heritage assets, including their settings, such as (c) designated heritage assets, i.e. listed buildings and (d) non-designated heritage assets
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31. Policy HQ/1 of the Local Plan requires all new development to make a positive contribution to its local and wider context. Development proposals should, appropriate to their scale and nature, conserve or enhance important natural and historic assets and their setting (criterion 1d).

## **Impact upon the curtilage listed building (heritage asset and non-designated heritage asset)**

### *Curtilage status*

32. The Planning (Listed Buildings and Conservation Areas) Act 1990, Section 1(5) says that the listed building also includes any ancillary object or structure within the curtilage of the building, which forms part of the land and has done so since before 1st July 1948.
33. The Historic England Listed Buildings and Curtilage Historic England Advice Note 10 states that understanding curtilage rests on the particular facts of each case. It will be for the local planning authority to reach a conclusion as to whether or not buildings are within a particular curtilage.
34. The courts have said that there are three key factors to be taken into account in assessing whether a structure or object is within the curtilage of a listed building:
  - the physical layout of the listed building and the structure
  - their ownership, both historically and at the date of listing
  - the use or function of the relevant buildings, again both historically and at the date of listing.
35. The application site consists of Home Farmhouse, first listed in 1962. Ancillary structures within the historic farmyard, some of which including the current barn (Black barn) pre-dated this listing. It is understood that the barn and farmhouse have not been under separate ownership from each other. The current use of the land is partly residential with the barns within the farmyard in working agricultural use, and within the same ownership/use of the applicant. It is understood that this has not changed since its first listing. Given that this is the case and taking into account the barn's close proximity to the side door of the dwelling and no physical boundary treatments separating these from the host dwelling, following formal consultations with the Council's Conservation Officers in this current application (in addition to previous applications and pre-applications) in my professional judgement, the barn is considered to be curtilage listed to Home Farmhouse (List Entry: 1226491).
36. Notwithstanding the above matter, an application has been prepared and submitted as both a planning application and listed building consent application and shall be assessed on the basis of its curtilage listed building status.

### *Site History Context*

37. The proposed replacement of the existing barn has been subject of previous pre-application discussions, Conservation Officer advice and several planning applications over the course of the last five years.
38. In early 2016, a structural engineers report suggested that despite limited

repairs, for health and safety reasons, in their opinion, the barn should be taken down. In 2019, another structural engineers report suggested that the retention of the building framing would neither be practical nor appropriate.

39. Conservation Officer advice in 2016 and early 2019 recommended that the building be repaired, if at all possible, and details of repairs be provided to the satisfaction of the LPA. Officers recognised the urgency of the matter and encouraged the applicant to provide temporary support to safeguard the structure and prevent further movement, including a protective covering to the exterior to avoid further water ingress and deterioration of the fabric, as a short-term measure.
40. During an on-site meeting in autumn 2019 under pre-application PRE/0305/19, it was noted how noticeable the barn had deteriorated. Given its proximity to the public bridleway and lack of viable internal use, it was considered that the dismantling and rebuild of the barn could be supported provided that sufficient heritage justification be provided and that any existing materials salvaged where possible.
41. Following this pre-app response and due to adverse weather conditions during the spring of 2020, the building suffered a major structural failure. Meanwhile a planning and listed building application was submitted. Following advice from the Council's Conservation Officer and in consultation with the building control department, it was advised that although necessary for the structure to be dismantled, any dismantling of the barn be done in such a way so that the framework be reassembled as far as possible in its original form with the elements taken down covered in a manner to avoid further harm.
42. The current application was submitted and following a consultation with the Council's Conservation Officer, an updated heritage statement was required. In addition, during the course of the application, amended plans were submitted to show that the barn would now replace the existing like for like on the same footprint (rather than the shortened length as originally proposed).

#### *Assessing the impact on the heritage asset*

43. The proposal is for the demolition of the barn and its replacement on the same footprint as the existing. A large part of the building has been dismantled and some materials set aside for future re-use where possible. The current building has no roof structure and the timber frame has been dismantled due to rot, insect infestation and its overall poor condition. The concrete floor and brick plinth is also in a poor state of repair and is all that is remaining of the barn.
44. The barn has undergone several alterations over the years with a high degree of modern changes including machine cut timbers and a concrete floor.
45. A dilapidated shed attaching the barn to Home Cottage to the south of the site has been demolished. Given that this is a later addition and lacks architectural merit, there is no objection to demolition of this element.

46. Whilst previous Conservation Officer advice encouraged the repair of the current building, upon the 2019 pre-application site visit, it was considered that the deterioration of the building was such that a replacement building could be supported where sufficient heritage justification and reuse of historic materials could be provided.
47. The proposed barn replacement would consist of a timber frame, clad with black weatherboarding. The brick plinth would match the existing house with the existing roof covering and two cross beams retained where possible.
48. Previous Officers encouraged the stabilisation of the barn and favoured repair over replacement and it is understood that additional timber work was added following the pre-application meeting in 2016 to adhere to the Conservation Officer's advice. However, further structural surveys have demonstrated that the barn is beyond repair. Therefore, on this basis, it is considered that the barn has not suffered from any deliberate neglect and therefore Paragraph 191 would not apply in this instance. The current condition subject to sufficient mitigation should therefore be a starting place in this application's assessment.
49. Taking into account the condition of the barn's structure and following a formal consultation with the Council's Conservation Officer, it is considered that the retention of salvageable materials would ensure that as much usable historic fabric of the original building is preserved, (noting that much of the building's fabric has involved the use of modern materials from the 20<sup>th</sup> Century) and any harm to the overall significance of this curtilage listed building and non-designated heritage asset would be minor in this instance. Therefore, it is considered that great weight has been given to the asset's conservation in this instance and would comply with Policy NH/14 of the Local Plan and Paragraph 193 of the NPPF 2019.
50. Whilst it is considered that 'less than substantial harm' upon this curtilage listed building and non-designated heritage asset would result from the loss of this original building, taking into account its poor condition and mitigation through the re-use of salvageable materials by condition, the harm would be 'minor' in this instance.
51. Whilst the scale of the loss is considered to be 'minor' 'less than substantial Harm', Paragraph 196 of the NPPF 2019 is engaged, and harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
52. Due to its condition, the existing barn is currently unusable for agricultural storage. The plan form of the existing building would be re-instated in addition to two sets of timber double doors proposed on the farmyard side to allow for vehicular access. This is considered to enable the future optimum viable agricultural use of the barn.
53. Taking into account the barn's poor condition and limited loss of historic fabric, it

is considered that the minor harm in this instance is outweighed by the future optimum viable use of this building and its positive contribution to the local economy and the restoration of this cultural element into the rural landscape. Therefore, the public benefits including securing its optimum viable use is considered to outweigh any harm to the curtilage listed barn and the proposal would comply with Paragraph 196 of the NPPF 2019.

## **Other Matters**

54. Upon the request of Officers, the agent has submitted a revised site location plan showing the area of development and access within the red line of the site. The area bounded in blue is within the applicant's ownership. Given the reduction in the red line boundary and no change to the extent of the land controlled by the applicant, it is not considered necessary for re-consultation to take place in this instance.
55. Due to the current Covid-19 restrictions a site visit by the Planning Committee Members has not been undertaken.

## **Planning balance and conclusion**

56. For the reasons set out in this report and having taken all relevant material considerations into account, it is considered that listed building consent should be granted in this instance.

## **Recommendation**

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

## **Conditions**

- 1) 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 19 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Existing & Proposed Location & Site Plan PL01 Revision B  
Proposed Layout and Elevations PL03 Revision A  
Proposed Layout PL04 Revision 0

- 2) Unless otherwise agreed in writing by the Local Planning Authority, the rebuild

of the replacement barn, hereby permitted, shall commence within 12 months of the complete demolition of the existing barn.

Reason: To avoid harm to the special interest of the host listed building and to ensure the retention and re-use of historic fabric in accordance with policy NH/14 of the South Cambridgeshire Local Plan 2018 and the NPPF 2019.

- 3) The materials to be used in the external construction of the development, hereby permitted, shall re-use existing salvageable materials as specified on the plans and as described in the supporting heritage statement.

Reason: To ensure that where possible the historic fabric is preserved in accordance with Policy NH/14 of the South Cambridgeshire Local Plan 2018.

## **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)

## **Report Author:**

Tom Gray – Senior Planning Officer  
Telephone: 07704 018476

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# Agenda Item 10

## SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

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|-------------------|--|-------------|
| <b>REPORT TO:</b> | Planning Committee                                   | 26 May 2021 |
| <b>AUTHOR/S:</b>  | Joint Director for Planning and Economic Development |             |

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**Application Number:** 20/02593/OUT

**Parish(es):** Weston Colville

**Proposal:** Outline planning for the development of 1 No. detached dwellinghouse with all matters reserved.

**Site address:** Garage Plot To North Of 14 Horseshoes Lane, Weston Colville, Cambridgeshire, CB21 5NU

**Applicant(s):** Ms Geraldine Roper, South Cambridgeshire District Council – Housing Department

**Recommendation:** Approval

**Key material considerations:** Principle of Development  
Character and appearance of the area  
Heritage impacts  
Flood Risk and Drainage  
Residential amenity  
Public Right of Way  
Highway safety and parking provision  
Ecology  
Trees

**Committee Site Visit:** None

**Departure Application:** No

**Presenting Officer:** Richard Fitzjohn (Senior Planning Officer)

**Application brought to Committee because:** The applicant is South Cambridgeshire District Council

**Date by which decision due:** 28<sup>th</sup> May 2021

### Executive Summary

1. The application seeks outline planning permission, with all matters reserved, for the development of 1 No. detached dwellinghouse. Matters of access, appearance, landscaping, layout and scale are reserved.
2. Outline planning permission, with all matters reserved, for demolition of garages and erection of a single dwelling was approved by South Cambridgeshire District Council

Planning Committee in January 2017 (planning permission ref: S/2593/16/OL). That outline planning permission has since expired and there are no longer any garages on the site.

3. The following additional information was received and fully re-consulted on during the course of the application:
  - Tree Survey and Tree Constraints Plan (prepared by Argenta Tree Surveys)
  - Heritage Statement (prepared by Saunders Boston Ltd)
  - Preliminary Ecological Appraisal (prepared by Applied Ecology Ltd)
  - A Flood Risk Assessment (prepared by MTC Engineering)
4. Officers consider that the principle of development within the established development framework is acceptable and that the proposed development would have acceptable impacts in respect of visual amenity and character, heritage, flood risk and drainage, residential amenity, ecology, the Public Right of Way, and highway safety and parking provision.
5. Officers consider that, subject to conditions, the proposed development accords with national and local planning policies and guidance.
6. The application is before Planning Committee as the applicant is South Cambridgeshire District Council.

### **Site and Surroundings**

7. The application site is located at the north eastern end of Horseshoes Lane and has an existing vehicle access off the lane. The site is located within the established development framework for Weston Colville. There are a number of trees adjacent to the boundaries of the site. Two garage blocks formerly occupied the site, however these have been demolished and there is a large area of concrete hardstanding remaining on the site. A Public Right of Way is located adjacent to the rear of existing houses on Horseshoes Lane and passes through the site. Three Horseshoes Farmhouse which sits opposite the site to the North is a grade II listed building. A two-storey semi-detached dwelling, No.14 Horseshoes Lane, is located adjacent to the south-west boundary of the site and is separated from the site by a hedge. There are open, agricultural fields to the north and east of the site. The eastern boundary of the site is located adjacent to the River Stour.

### **Planning History**

8. S/2593/16/OL - Outline planning application for demolition of garages and erection of single dwelling – Approved 12.01.2017

SC/1282/72/F – Planning permission granted for the erection of seven garages – Approved 07.02.1972

### **Planning Policies**

9. **National Guidance**  
National Planning Policy Framework 2019 (NPPF)  
National Planning Practice Guidance (NPPG)

National Design Guide (NDG)

**10. 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 Frameworks  
S/11 Infill 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  
NH/2 Protecting and Enhancing Landscape Character  
NH/4 Biodiversity  
NH/14 Heritage Assets  
H/8 Housing Density  
H/12 Residential Space Standards  
TI/2 Planning for Sustainable Travel  
TI/3 Parking Provision  
TI/8 Infrastructure and New Developments  
TI/10 Broadband

**11. South Cambridgeshire Supplementary Planning Documents (SPD)**

Sustainable Design and Construction – Adopted January 2020  
District Design Guide – Adopted 2010  
Maintenance of Sustainable Drainage Systems – Adopted 2016  
Cambridgeshire Flood and Water SPD - adopted November 2018  
Trees & Development Sites SPD - Adopted January 2009

**Consultations**

12. **Weston Colville Parish Council** – “Weston Colville Parish Council has no comments to make about this application.”

13. **Local Highways Authority (received 13.07.2020 and 09.02.2021)** –

No objections in principle.

Recommend the following conditions are appended to any permission that the Planning Authority is minded to issue:

- Prior to the commencement of the use hereby permitted pedestrian visibility splay of 2m x 2m shall be provided both sides of the 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.

Reason: In the interests of highway safety.

- 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.

- 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.

Recommend an informative is appended to any permission that the Planning Authority is minded to issue 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.

**14. Trees Officer** – No arboricultural or hedgerow objections to this application.

Trees on or adjacent site have: No statutory protection.

Tree and hedgerow information: A Tree Survey and Constraints Plan (dated August 2020) has been submitted.

This is sufficient for this stage of the application but a further detailed Tree Protection Plan will be required for a reserved matters application.

Condition request: The reserved matters application shall include a detailed Arboricultural Method Statement and Tree Protection Strategy, including details of timing of events, protective fencing and ground protection measures. This should comply with BS5837. The tree protection measures shall be installed in accordance with the approved tree protection strategy before any works commence on site. The tree protection measures shall remain in place throughout the construction period and may only be removed following completion of all construction works.

**15. Ecology Officer (received 03.02.2021)** – No further comments to make. See previous comments and suggested conditions.

**16. Ecology Officer (received 21.10.2021)** – No objection to this application in principle.

There will be no impacts on any designated sites for nature conservation. The proposals do not meet Natural England's SSSI Impact Risk Zone criteria. There are also no Habitats of Principle Importance within the site, although boundary trees and shrubs are likely to be of ecological value.

The Preliminary Ecological Appraisal report (Applied Ecology Limited, August 2020) is welcomed. The site comprises hardstanding with colonising ephemeral vegetation, boundary trees, shrubs, a non-native cherry laurel hedgerow and a small area of scrub. The River Stour lies immediately adjacent to the eastern boundary. As the boundary trees will be retained and protected during works, at least a 5m buffer will remain between the dwelling and the River. There was no evidence of water vole using the River. The small number of trees and shrubs which will be removed do not have potential to support roosting bats. There is however some limited potential to support nesting birds. A condition to protect nesting birds is therefore recommended.

In accordance with NPPF paragraph 170, 174, and 175, and the Adopted South Cambridgeshire District Council Local Plan Policy NH/4, applications should contribute to enhancing and restoring biodiversity. Opportunities should be taken to achieve a measurable net gain in biodiversity through the form and design of development. This should include the incorporation of bat and bird nesting boxes in dwellings, use of native planting mixes and wild grasses, the inclusion of green and brown roofs or the inclusion of features such as log piles, insect hotels and hedgehog connectivity measures. Augmenting boundary planting with native species of local provenance would be particularly supported. As measurable net gain is clearly achievable within the scheme, enhancement measures could be secured by condition.

Due to the proximity to a watercourse which may be used by light-sensitive bat species, a condition for a sensitive external lighting design should be attached. Lighting should be designed in accordance with best practice guidance including Bats and Lighting in the UK (ILP, 2018).

### **Recommended Conditions**

#### **Nesting Birds:**

No removal of hedgerows, trees or shrubs, brambles, ivy and other climbing plants that may be used by breeding birds shall take place between 1st March and the 31st August inclusive, unless a suitably qualified ecologist has undertaken a careful, detailed check of suitable habitat for active birds' nests immediately before the habitat is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.

Reason - To ensure compliance with the Wildlife and Countryside Act 1981 (as amended).

#### **Lighting:**

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 before installation by the local planning authority.

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 and to protect nearby wildlife habitat.

#### **Ecological Enhancement:**

Prior to the commencement of development above slab level, a specification and location plan for a scheme of biodiversity enhancement including native planting, a scheme of integrated bat and bird boxes and hedgehog connectivity measures shall be supplied to the local planning authority for its written approval. The approved scheme shall be fully implemented within an agreed timescale unless otherwise agreed in writing.

Reason - To provide biodiversity net gain in accordance with the NPPF and the Adopted South Cambridgeshire District Council Local Plan Policy NH/4 and Biodiversity SPD.

- 17. Conservation Officer** – The application site is not within a conservation area. It stands opposite the Grade II listed Three Horseshoes Farmhouse. There are no other listed buildings nearby.

The application seeks outline permission for a single dwelling on this site, which was formerly occupied by a number of lock-up garages, and is now simply a neglected area of hardstanding. The site detracts from the setting of the listed building. A well-designed new building here would be likely to enhance the setting of the listed building, particularly if, as the application suggests, some of the existing trees are retained. Appropriate materials would be important; they can be controlled through a reserved matters application.

The outline proposal complies with Local Plan policy NH/14.

18. **Environmental Health Officer** – Advise that the following conditions/informatives should be attached to any planning consent granted:

#### **Conditions**

- 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 0800-1800 Monday to Friday, 0800-1300 Saturday and not at any time on Sundays or Bank or Public holidays.

Reason: To protect the amenity of the locality, especially for people living and/or working nearby, in accordance with local planning policy

- There shall be no burning of any waste or other materials on the site, without prior consent from the Environment Agency. A D7 exemption registered with the Environment agency is required.

Reason: To ensure nuisance is not caused to local residents

#### **Informatives**

- Under the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2011 permitted development rights were granted to the development of ground source or air source heat pumps for dwelling houses and flats. The MCS Planning Standards were developed to act as a resource for this and contains the requirements, including noise prediction methodologies, that ground source or air source heat pumps must comply with to be permitted development under the above Act.

Development would not be permitted development if it failed to comply with The MCS Planning Standards. It would be a reasonable step to require that any new ground source or air source heat pump complies with the MCS Planning Standards. This should ensure that internal and external noise levels are kept to a reasonable level at any nearby residential premises.

- The granting of permission and or any permitted development rights for any Air Source Heat Pump (ASHP) does not indemnify any action that may be required under the Environmental Protection Act 1990 for statutory noise nuisance. Should substantiated noise complaints be received in the future regarding the operation and running of an air source heat pump and it is considered a statutory noise nuisance at neighbouring premises a noise abatement notice will be served. It is likely that noise insulation/attenuation measures such as an acoustic enclosure and/or barrier would need to be installed to the unit in order to reduce noise emissions to an acceptable level. To avoid noise complaints it is recommended that operating sound from the ASHP does not increase the existing background noise levels by more than 3dB (BS 4142 Rating Level - to effectively match the existing background noise level) at the

boundary of the development site and should be free from tonal or other noticeable acoustic features.

In addition equipment such as air source heat pumps utilising fans and compressors are liable to emit more noise as the units suffer from natural aging, wear and tear. It is therefore important that the equipment is maintained/serviced satisfactorily and any defects remedied to ensure that the noise levels do not increase over time.

- Should driven pile foundations be proposed, then before works commence, a statement of the method for construction of these foundations shall be submitted and agreed by the District Environmental Health Officer so that noise and vibration can be controlled.

- The applicant should take all relevant precautions to minimise the potential for disturbance to neighbouring residents in terms of noise and dust during the construction phases of development. This should include the use of water suppression for any stone or brick cutting and advising neighbours in advance of any particularly noisy works. The granting of this planning permission does not indemnify against statutory nuisance action being taken should substantiated noise or dust complaints be received. For further information please contact the Environmental Health Service.

19. **Asset Information Definitive Map Officer** - Public Footpath No. 16, Weston Colville runs through the site.

The Definitive Map Officer's comments are similar to those made on a previous application (S/2593/16/OL) on this site. It would appear that the recorded legal route of Public Footpath No. 16 does not match that of the walked route. Therefore the current proposals would permanently obstruct Public Footpath No. 16. It is an offence to obstruct a Public Highway under s. 137 of the Highways Act 1980.

The Definitive Map Officer notes that the walked route has been partly accounted for within the proposals, however the applicant will be required to apply for a Public Path Diversion Order under Section 257 of the Town and County Planning Act. This process is open, allowing comment and objection from users and can take several months to complete with no guarantee of success. The applicant is also liable for the cost of any public path order and any mitigation works required by the County Council. The applicant is encouraged to engage with the Definitive Map Team at an early stage to understand the feasibility of any proposal.

In addition, development should not adversely affect a Public Right of Way. Where a public footpath is to be enclosed between fences or hedgerows extra land will have to be set aside for the path for access and maintenance. Public Rights of Way should not be enclosed by close boarded fencing to both sides as this creates a route which is unwelcoming to users. Therefore, any close boarded boundary treatment should be no higher than 1.5m (1.5m fencing plus 0.3m trellising is acceptable) and additional width set aside (0.5m-1.0m). Any diverted Public Footpath should be at least 2 metres wide plus any additional width required. The current block plan only appears to have set out a 1.5m wide path which would be unacceptable.

Whilst the Definitive Map team do not have any objection to the principle of development, pre-commencement conditions are considered essential for the reasons set out above.

Conditions:

- i) Prior to commencement of development, an access scheme shall be submitted to and approved by the LPA. Such scheme shall include provision for:
- a. The design of public rights of way routes and their surfacing, widths, landscaping and structures.
  - b. Any proposals for diversion and closure of public rights of way and alternative route provision.

Reason: In the interests of the amenity and safety of the public.

Requests the following informative are appended to any grant planning permission:

- Public Footpath No. 16 Weston Colville must remain open and unobstructed at all times. Building materials must not be stored on Public Rights of Way and contractors' vehicles must not be parked on it (it is an offence under s 137 of the Highways Act 1980 to obstruct a public Highway).
- Landowners are reminded that it is their responsibility to maintain boundaries, including trees, hedges and fences adjacent to Public Rights of way, and that any transfer of land should account for any such boundaries (s154 Highways Act 1980).
- No alteration to the public footpath's surface is permitted without the consent of the Definitive Map team (it is an offence to damage the surface of a public footpath under s 1 of the Criminal Damage Act 1971).
- The granting of planning permission does not entitle a developer to obstruct a Public Right of Way (Circular 1/09 para 7.1)

20. **Drainage** - Proposals are located potentially in an area of high surface water flood risk. In accordance with the NPPF paragraph 163 and Policy CC/9 of the adopted South Cambridgeshire Local Plan a site specific flood risk assessment is required.

21. **Environment Agency** (received 04.02.2021) – No objection in principle to the proposed development. Offer the following summarised recommendations and informatives:

- Environment Agency position – Floodrisk.  
The site lies within Fluvial Flood Zone 1 and while there is a risk of surface water flooding during a 0.1% AEP event, the predicted depth of flood water would be <300mm. The proposed development would raise the finished floor levels 300mm above the 0.1% AEP flood level, with flood resilient construction incorporated to 600mm above the 0.1% AEP flood level. Access and egress to the site is along Horseshoes Lane, which does not lie within the fluvial or surface water flood zones and would remain dry and safe in the event of a flood. Therefore have no objection to the proposed development in terms of floodrisk. Recommend the Council's Emergency planner should be consulted in respect of access/egress.
- Other Environmental Informatives and Advice.  
Surface Water Drainage and Infiltration Sustainable Drainage Systems (SuDS):  
All surface water from roofs shall be piped direct to an approved surface water system using sealed downpipes.  
Open gullies should not be used.  
Only clean, uncontaminated surface water should be discharged to any soakaway, watercourse or surface water sewer.



- The water environment is potentially vulnerable and there is an increased potential for pollution from inappropriately located and/or designed infiltration (SuDS). The Environment Agency consider any infiltration (SuDS) greater than 2.0 m below ground level to be a deep system and are generally not acceptable. All infiltration SuDS require a minimum of 1.2 m clearance between the base of infiltration SuDS and peak seasonal groundwater levels. All need to meet the criteria in the Environment Agency's Groundwater Protection: Principles and Practice (GP3) position statements G1 to G13 and they must not be constructed in ground affected by contamination and if the use of deep bore soakaways is proposed, the Environment Agency wish to be re-consulted.
- The proposals will need to comply with the Environment Agency Groundwater protection position statements G1 and G9 to G13.

### **Representations**

22. A site notice was displayed near the site and letters were sent to 12 nearby properties. In addition, a press advert was published in the local newspaper advertising the proposed development which would affect a Public Right of Way and the setting of a Listed Building. 1 third party representation has been from the owner of Three Horseshoes Farm, objecting to the proposed development and raising the following summarised concerns.
- Main concern is the entrance to the working farm yard being blocked, by the extra traffic caused by construction work of the proposed dwelling, and extra cars parked in an already crowded road when the dwelling is complete. Requests what measures the Council intend to do to avoid this problem such as double yellow lines.
  - State that they did not receive a letter informing them about the application, as stated on the Council's website.

### **PLANNING CONSIDERATIONS**

23. The key issues to consider in the determination of this application relate to the principle of development and the impacts upon the character and appearance of the area, heritage impacts, flood risk and drainage, residential amenity, the Public Right of Way, highway safety and parking provision, ecology and trees.

#### **Principle of Development**

24. The proposed development would be located within the established development framework for Weston Colville, where the principle of residential development is considered acceptable. The proposed development would provide 1No. dwelling on previously developed land. The principle of development is therefore considered acceptable, in accordance with policies S/7 and S/11 of the South Cambridgeshire Local Plan 2018.

#### **Character and appearance of the area**

25. The application site comprises previously developed land on the south-east side of Horseshoes Lane, adjacent to existing residential dwellings which are situated in a linear form facing the road. The site is located on the northern edge of the village, also located adjacent to open agricultural fields. The application site has formerly had garage

buildings located within it, however these buildings have been demolished. The site is well screened by existing boundary trees.

26. The application is for outline planning permission with all matters reserved. Therefore, the details of access, appearance, landscaping, layout and scale of the proposed development are matters reserved for later approval. However, an indicative layout plan has been submitted with the application which demonstrates that 1No. dwelling could be accommodated within the site comfortably, continuing the existing linear form of development along the south-east side of Horseshoes Lane, and respecting the character, appearance, form and density of the surrounding area, in accordance with policies HQ/1, NH/2 and H/8 of the Local Plan.

### **Heritage impacts**

27. The application site is located within 20 metres of a Grade II listed building, Three Horseshoes Farmhouse. The application site is located to the opposite side of Horseshoe Lane to the listed building, with the road and views of agricultural fields to the north-east providing some separation between the site and Three Horseshoes Farm.
28. The Council's Conservation Officer has stated the existing site detracts from the setting of the listed building and that a well-designed new building would be likely to enhance the setting of the listed building, particularly if, as the application suggests, some of the existing trees are retained. With consideration given to the view of the Conservation Officer, the existing appearance of the site and the physical separation gap between the site and listed building which are on separate sides of the road to each other, it is considered that an appropriate design could be achieved for the proposed dwelling which would result in an acceptable impact on the setting of the nearby Grade II listed building.
29. The Conservation Officer also states that appropriate materials would be important, which can be controlled through a reserved matters application. Subject to the proposed dwelling being of an appropriate appearance, layout and scale, which would be determined at the reserved matters stage, the principle of a dwelling on site is considered to be acceptable in heritage terms as it would preserve or enhance the setting of the nearby listed building, in accordance with policy NH/14 of the South Cambridgeshire Local Plan 2018.

### **Flood risk and drainage**

30. A Flood Risk Assessment has been provided to the Local Planning Authority during the course of the application, following the Council's Sustainable Drainage Engineer's comments that it was not possible to comment on the proposed development and that a Flood Risk Assessment was required due to the proposal being located potentially in an area of high surface water flood risk.
31. The application site is located within Flood Zone 1 on the Environment Agency Flood Maps for Planning, where the principle of residential development is acceptable in flood risk terms. The Flood Risk Assessment states that the only significant flood risk is a limited risk of flooding from surface water in a 1 in 100 year plus climate change or 1 in 1000 year event, which could result in shallow flooding. The Flood Risk Assessment therefore considers the flood risks to be acceptable, but makes recommendations for the finished floor level and flood resilient construction height of the proposed dwelling, and states that a detailed surface water drainage scheme could be secured by a planning condition. The recommendations of the Flood Risk Assessment are consistent with the comments received from the Environment Agency who have no objection to the proposed development.

32. Given the existing slab foundations on the site, the dwelling would not occupy a significantly larger area than is currently impermeable and it is considered that the additional impact of a dwelling in terms of surface water runoff would be very limited. Nonetheless, given the precise scale and layout of the dwelling are not known at this stage, it is considered necessary to apply a condition requiring a surface water drainage scheme to be submitted to and approved in writing by the Local Planning Authority.
33. On that basis, the principle of a dwelling on site is considered to be acceptable in terms of flood risk and surface water drainage, in accordance with policies CC/7, CC/8 and CC9 of the South Cambridgeshire Local Plan 2018.

### **Residential Amenity**

34. The indicative layout plan demonstrates that 1 No. dwelling could be accommodated within the site with a generous separation distance from the side elevation of the adjacent neighbouring dwelling, No.14 Horseshoes Lane, which would prevent any significant overbearing impacts and significant loss of light to this neighbouring property. In addition, the proposed dwelling would be located to the north-east of this neighbouring property, further limiting any impacts in respect of loss of light to No.14 Horseshoes Lane.
35. The proposed dwelling is significantly distanced enough from any other nearby residential dwellings to prevent any significant detrimental impacts being created to the residential amenity of those dwellings.
36. While the appearance, layout and scale would be reserved for future consideration, it is considered that a dwelling could be designed which would have an acceptable impact on the residential amenity of the neighbouring properties, in accordance with policy HQ/1 of the South Cambridgeshire Local Plan 2018.
37. The indicative layout plan demonstrates that the proposed dwelling could be served by adequate amenity space which exceeds the amenity space guidance for new dwellings contained within the Council's Design Guide SPD.
38. Internal space standards would be considered as part of a future Reserved Matters application which would consider the layout of the proposed development. However, the site provides sufficient space within it for a single dwelling which could comply with national space standards. A condition can be appended to the planning permission requiring the layout of the dwelling, which is to be considered within a future Reserved Matters application, to demonstrate that the dwelling meets or exceeds the Government's Technical Housing Standards - Nationally Described Space Standard (2015) or successor document, in accordance with policy H/12 of the South Cambridgeshire Local Plan 2018.
39. In order to protect the residential amenity of neighbouring properties during construction, the Council's Environmental Health Officer has recommended conditions requiring a restriction on noisy construction hours and preventing the burning of waste on site. It is considered reasonable and necessary, in the interests of protecting the residential amenity of neighbouring properties, to append a condition restricting noisy construction hours. However it is not considered reasonable or necessary to append a condition preventing the burning of waste on site for a single dwelling, therefore it is recommended that this is appended as an informative rather than a condition.

40. It is therefore considered that the proposed development would not have any significant detrimental impacts upon the residential amenity of neighbouring properties and would provide a high level of amenity to future occupiers of the proposed dwelling, in accordance with policies HQ/1 and H/12 of the Local Plan and guidance contained within the Council's Design Guide SPD.

### **Public Right of Way**

41. Public Footpath No. 16, Weston Colville, runs through the application site. The Definitive Map Officer states that it would appear that the recorded legal route of Public Footpath No. 16 does not match that of the walked route.
42. The current proposals, would permanently obstruct Public Footpath No. 16, which is an offence under s. 137 of the Highways Act 1980, and also appears to have set out only a 1.5m wide path which would be unacceptable due to insufficient width. However, the layout plan submitted with the application is indicative only and would not form part of the approved plans if planning permission is granted.
43. The Asset Information Definitive Map team do not have any objection to the principle of development, subject to a pre-commencement condition being appended to any grant of planning permission requiring the submission of an access scheme for the diversion, design, surfacing, width and landscaping of the public right of way, which is considered essential for the reasons set out within their consultation response.
44. Subject to the condition recommended by the Asset Information Definitive Map Officer, the effectiveness and amenity of the Public Right of Way could be maintained, in accordance with policies TI/2 and HQ/1 of the South Cambridgeshire Local Plan 2018.

### **Highway safety and parking provision**

45. Although details of access are not a matter for consideration as part of the current application, it is likely that the proposed development would make use of the existing access, as shown on the indicative layout plan. The existing access would provide a suitable and safe access for 1No. dwelling and it is therefore considered that the proposed development demonstrates that it would be capable of achieving a safe and convenient access with the highway.
46. It is not considered that the use of the access for 1No. dwelling would significantly intensify the vehicle movements in the area and the application site provides sufficient room for 2 off-street car parking spaces, meaning that additional on street parking would be limited and would not result in any significant additional parking problems on the street.
47. Due to the quiet, end of street location of the application site, it is considered that the proposed development would not result in any harm to highway safety. It should be noted that the Local Highway Authority has no objections in principle to the proposed development and therefore the highway safety impacts of the proposed development are considered acceptable.
48. The Local Highway Authority has recommended conditions relating to the provision of pedestrian visibility splays, a detailed engineering scheme for the access and details of surfacing and drainage of the driveway. However, this application seeks outline planning permission with all matters reserved and therefore details of access are not a matter for consideration as part of this application. As such, the conditions recommended by the Local Highway Authority could be appended to a future

application for reserved matters approval should outline planning permission be granted.

49. It is therefore considered that the proposed development would have acceptable impacts on highway safety and parking provision, in accordance with policies TI/2, TI/3 and HQ/1 of the South Cambridgeshire Local Plan 2018.

## **Ecology**

50. Policy NH/4 of the South Cambridgeshire Local Plan 2018 requires applications to contribute to enhancing and restoring biodiversity. Opportunities should be taken to achieve a measurable net gain in biodiversity through the form and design of development.
51. The application is supported by a Preliminary Ecological Appraisal report.
52. The Council's Ecology Officer states that the proposed development will have no impacts on any designated sites for nature conservation, it does not meet Natural England's SSSI Impact Risk Zone criteria, and there are no Habitats of Principle Importance within the site.
53. The boundaries of the site contain a number of trees and hedging and the River Stour lies adjacent to the east of the site. The Preliminary Ecological Appraisal report found no evidence of Water Vole using the river. The boundary trees and shrubs are likely to be of ecological value, with limited potential to support nesting birds but not roosting bats. A condition is therefore recommended to protect nesting birds.
54. The Council's Ecology Officer has no objection to this application in principle and states that measurable net gain is clearly achievable within the proposed development and therefore it is considered reasonable and necessary to append a condition to any grant of planning permission requiring enhancement measures to be agreed with the Local Planning Authority and subsequently implemented.
55. Due to the proximity to a watercourse which may be used by light-sensitive bat species, it is also considered reasonable and necessary to append a condition for a sensitive external lighting design to any grant of planning permission.
56. Subject to the conditions recommended by the Ecology Officer and appended to this report, it is considered that the proposed development would preserve and enhance ecological interests, in accordance with Policies S/3, HQ/1 and NH/4 of the South Cambridgeshire Local Plan 2018.

## **Trees**

57. There are a number of trees adjacent to the boundaries of the site, however none of these trees have any formal protection. The application is supported by a Tree Survey and Constraints Plan which references the trees within the site by specific numbers, which are referred to below.
58. Tree Survey and Constraints Plan makes recommendations to remove a group of dead and dying trees (group G1) regardless of plans to redevelop the site. It, however, states that other trees (trees 1-3) on the site frontage are important amenity trees and tree 7 is less important but still significant. The Tree Survey and Constraints Plan also states that site preparation could cause great harm to trees 1, 2 and 7. It should be noted that,

although the Tree Survey and Constraints Plan makes recommendations for the trees on site, the current application does not proposed to remove any trees.

59. The Council's Trees Officer has no arboricultural objections to the application, but requests a condition requiring that any future application(s) for approval of the reserved matters, pursuant to this outline planning permission, shall include a detailed Arboricultural Method Statement and Tree Protection Strategy, and requiring that the tree protection measures are installed, and thereafter retain during the construction period, in accordance with the approved tree protection strategy. In the interests of ensuring adequate protection of existing trees to be retained as part of the proposed development, it is considered reasonable and necessary to append the condition requested by the Council's Trees Officer.
60. It is therefore considered that the proposed development would not result in any significant harm to trees, in accordance with policies S/3 and NH/4 of the South Cambridgeshire Local Plan 2018.

### **Other matters**

61. Energy efficiency - Policy CC/3 of the South Cambridgeshire Local Plan 2018 requires that proposals for new dwellings shall 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. In order to ensure that this is achieved, a condition could be appended to the planning permission requiring a scheme demonstrating this to be agreed by the LPA.
62. Water efficiency - Policy CC/4 of the South Cambridgeshire Local Plan 2018 states that all new residential developments must achieve as a minimum water efficiency equivalent to 110 litres per person per day. In order to ensure that this is achieved, a condition could be appended to the planning permission requiring this to be complied with.
63. Broadband - Policy TI/10 of the South Cambridgeshire Local Plan 2018 states that new development (residential, employment and commercial) will be expected to contribute towards the provision of infrastructure suitable to enable the delivery of high speed broadband services across the district. As a minimum, suitable ducting to industry standards should be provided to the public highway that can accept fibre optic cabling or other emerging technology. Other forms of infrastructure, such as facilities supporting mobile broadband and Wi-Fi, should be included where possible and viable. In order to ensure that this is achieved, a condition could be appended to the planning permission requiring this to be complied with

### **Conclusion**

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

### **Recommendation**

65. That planning permission be granted subject to appropriate planning conditions / informatives:

### **Conditions**

- 1) Application(s) for 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. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason: In accordance with the requirements of Section 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

- 2) The development hereby permitted shall be carried out in accordance with the approved plans as listed on this decision notice.

- 1456\_P\_03 – Received 4th June 2020
- Preliminary Ecological Appraisal - Received 3<sup>rd</sup> September 2020
- Flood Risk Assessment – Received 14<sup>th</sup> January 2021

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) No development above ground level shall commence until a scheme for the provision and implementation of surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to the occupation of any part of the development or in accordance with the implementation programme agreed in writing with the Local Planning Authority.

Fitzj1

Reason: To ensure a satisfactory method of surface water drainage and to prevent the increased risk of flooding in accordance with Policies CC/7 and CC/9 of the South Cambridgeshire Local Plan 2018.

- 4) No development above ground level shall commence until a scheme for the provision and implementation of foul water drainage has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details 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 and to ensure a satisfactory method of foul water drainage in accordance with Policies CC/7 and CC/8 of the South Cambridgeshire Local Plan 2018.

- 5) No development above ground level shall proceed until an Energy Statement has been submitted to and approved in writing by the local planning authority. The Statement shall demonstrate that a minimum of 10% 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 approved scheme shall be fully installed and operational prior to the occupation of the development and thereafter maintained in accordance with the approved details.

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 and thereafter maintained in accordance with the approved details.

Reason: To ensure an energy efficient and sustainable development in accordance with Policy CC/3 of the adopted South Cambridgeshire Local Plan 2018 and the Greater Cambridge Sustainable Design and Construction SPD 2020.

- 6) No dwelling(s) shall be occupied until a water efficiency specification for each dwelling type, 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. 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 in accordance with Policy CC/4 of the South Cambridgeshire Local Plan 2018 and the Greater Cambridge Sustainable Design and Construction SPD 2020.

- 7) Prior to the first occupation of the/any dwelling, infrastructure to enable the delivery of broadband services, to industry standards, shall be provided for that dwelling.

Reason: To contribute towards the provision of infrastructure suitable to enable the delivery of high speed broadband across the district, in accordance with policy TI/10 of the South Cambridgeshire Local Plan 2018.

- 8) No construction or demolition work shall be carried out and no plant or power operated machinery operated other than between the following hours: 0800 hours and 1800 hours on Monday to Friday, 0800 hours and 1300 hours on Saturday and at no time on Sundays, Bank or Public Holidays, , unless otherwise previously agreed in writing with the Local Planning Authority.

Reason: To protect the amenity of the adjoining properties in accordance with Policy CC/6 of the South Cambridgeshire Local Plan 2018.

- 9) Details of the layout of the dwelling as required by condition 1; above, shall demonstrate that the dwelling meets or exceeds the Government's Technical Housing Standards - Nationally Described Space Standard (2015) or successor document.

Reason: To ensure a reasonable level of residential amenity and quality of life and the long-term sustainability and usability of the dwelling(s) in accordance with policy H/12 of the South Cambridgeshire Local Plan 2018).

- 10) Any future application(s) for approval of the reserved matters, pursuant to this outline planning permission, shall include a detailed Arboricultural Method Statement and Tree Protection Strategy, including details of timing of events, protective fencing and ground protection measures, which shall comply with BS5837. The tree protection measures shall be installed in accordance with the approved tree protection strategy before any works commence on site. The tree protection measures shall remain in



place throughout the construction period and may only be removed following completion of all construction works.

- 11) No removal of hedgerows, trees or shrubs, brambles, ivy and other climbing plants that may be used by breeding birds shall take place between 1st March and the 31st August inclusive, unless a suitably qualified ecologist has undertaken a careful, detailed check of suitable habitat for active birds' nests immediately before the habitat is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.

Reason - To prevent harm to ecology in accordance with policy NH/4 of the South Cambridgeshire Local Plan 2018 and to ensure compliance with the Wildlife and Countryside Act 1981 (as amended).

- 12) 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 before installation by the local planning authority.

Reason -To minimise the effects of light pollution on the surrounding area and to protect nearby wildlife habitat, in accordance with policies SC/9 and NH/4 of the South Cambridgeshire Local Plan 2018.

- 13) Prior to the commencement of development above slab level, a specification and location plan for a scheme of biodiversity enhancement including native planting, a scheme of integrated bat and bird boxes and hedgehog connectivity measures shall be supplied to the local planning authority for its written approval. The approved scheme shall be fully implemented within an agreed timescale unless otherwise agreed in writing.

Reason - To provide biodiversity net gain in accordance with the NPPF and the Adopted South Cambridgeshire District Council Local Plan Policy NH/4 and Biodiversity SPD.

- 14) Prior to commencement of development, an access scheme shall be submitted to and approved by the Local Planning Authority. Such scheme shall include provision for:
- a. The design of public rights of way routes and their surfacing, widths, landscaping and structures.
  - b. Any proposals for diversion and closure of public rights of way and alternative route provision.

Reason: In the interests of the amenity and safety of the public, in accordance with policies TI/2 and HQ/1 of the South Cambridgeshire Local Plan 2018.

- 15) If unexpected contamination is encountered during the development works which has not previously been identified, all works shall cease immediately until the Local Planning Authority has been notified in writing. Thereafter, works shall only restart with the written approval of the Local Planning Authority following the submission and approval of a Phase 2 Intrusive Site Investigation Report and a Phase 3 Remediation Strategy specific to the newly discovered contamination.

The development shall thereafter be carried out in accordance with the approved Intrusive Site Investigation Report and Remediation Strategy.

Reason: To ensure that any unexpected contamination is rendered harmless in the interests of environmental and public safety in accordance with Policy SC/11 of the South Cambridgeshire Local Plan.

### **Informatives**

- a) The granting of planning permission does not constitute a permission or a licence to a developer to carry out works within, or disturbance of, or interference with, the public highway, and a separate permission must be sought from the Highway Authority for such works.
- b) It is advised that there be no burning of any waste or other materials on the site, without prior consent from the Environment Agency. A D7 exemption registered with the Environment agency would be required.
- c) Under the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2011 permitted development rights were granted to the development of ground source or air source heat pumps for dwelling houses and flats. The MCS Planning Standards were developed to act as a resource for this and contains the requirements, including noise prediction methodologies, that ground source or air source heat pumps must comply with to be permitted development under the above Act. Development would not be permitted development if it failed to comply with The MCS Planning Standards. It would be a reasonable step to require that any new ground source or air source heat pump complies with the MCS Planning Standards. This should ensure that internal and external noise levels are kept to a reasonable level at any nearby residential premises.
- d) The granting of permission and or any permitted development rights for any Air Source Heat Pump (ASHP) does not indemnify any action that may be required under the Environmental Protection Act 1990 for statutory noise nuisance. Should substantiated noise complaints be received in the future regarding the operation and running of an air source heat pump and it is considered a statutory noise nuisance at neighbouring premises a noise abatement notice will be served. It is likely that noise insulation/attenuation measures such as an acoustic enclosure and/or barrier would need to be installed to the unit in order to reduce noise emissions to an acceptable level. To avoid noise complaints it is recommended that operating sound from the ASHP does not increase the existing background noise levels by more than 3dB (BS 4142 Rating Level - to effectively match the existing background noise level) at the boundary of the development site and should be free from tonal or other noticeable acoustic features. In addition equipment such as air source heat pumps utilising fans and compressors are liable to emit more noise as the units suffer from natural aging, wear and tear. It is therefore important that the equipment is maintained/serviced satisfactory and any defects remedied to ensure that the noise levels do not increase over time.
- e) Should driven pile foundations be proposed, then before works commence, a statement of the method for construction of these foundations shall be submitted and agreed by the District Environmental Health Officer so that noise and vibration can be controlled.
- f) The applicant should take all relevant precautions to minimise the potential for disturbance to neighbouring residents in terms of noise and dust during the construction phases of development. This should include the use of water suppression for any stone or brick cutting and advising neighbours in advance of any

particularly noisy works. The granting of this planning permission does not indemnify against statutory nuisance action being taken should substantiated noise or dust complaints be received. For further information please contact the Environmental Health Service.

- g) Public Footpath No. 16 Weston Colville must remain open and unobstructed at all times. Building materials must not be stored on Public Rights of Way and contractors' vehicles must not be parked on it (it is an offence under s 137 of the Highways Act 1980 to obstruct a public Highway).
- h) Landowners are reminded that it is their responsibility to maintain boundaries, including trees, hedges and fences adjacent to Public Rights of way, and that any transfer of land should account for any such boundaries (s154 Highways Act 1980).
- i) No alteration to the public footpath's surface is permitted without our consent (it is an offence to damage the surface of a public footpath under s 1 of the Criminal Damage Act 1971).
- j) The granting of planning permission does not entitle a developer to obstruct a Public Right of Way (Circular 1/09 para 7.1).
- k) Surface Water Drainage and Infiltration Sustainable Drainage Systems (SuDS):  
All surface water from roofs shall be piped direct to an approved surface water system using sealed downpipes. Open gullies should not be used.

Only clean, uncontaminated surface water should be discharged to any soakaway, watercourse or surface water sewer.

The water environment is potentially vulnerable and there is an increased potential for pollution from inappropriately located and/or designed infiltration (SuDS). We consider any infiltration (SuDS) greater than 2.0 m below ground level to be a deep system and are generally not acceptable. All infiltration SuDS require a minimum of 1.2 m clearance between the base of infiltration SuDS and peak seasonal groundwater levels. All need to meet the criteria in our Groundwater Protection: Principles and Practice (GP3) position statements G1 to G13 which can be found here:

<https://www.gov.uk/government/collections/groundwater-protection>.

In addition, they must not be constructed in ground affected by contamination and if the use of deep bore soakaways is proposed, we would wish to be re-consulted. The proposals will need to comply with the Environment Agency Groundwater protection position statements G1 and G9 to G13.

- l) Pollution Control:  
Surface water from roads and impermeable vehicle parking areas shall be discharged via trapped gullies.

Site operators should ensure that there is no possibility of contaminated water entering and polluting surface or underground waters.

- m) Foul Water Drainage:

Foul water drainage (and trade effluent where appropriate) from the proposed development should be discharged to the public foul sewer, with the prior approval of AWS, unless it can be satisfactorily demonstrated that a connection is not reasonably available.

Anglian Water Services Ltd. should be consulted by the Local Planning Authority and be requested to demonstrate that the sewerage and sewage disposal systems serving the development have sufficient capacity to accommodate the additional flows, generated as a result of the development, without causing pollution or flooding. If there is not capacity in either of the sewers, the Agency must be reconsulted with alternative methods of disposal.

n) Contaminated Land:

We do not consider this proposal to be High Risk. Therefore, we will not be providing detailed site-specific advice or comments with regards to land contamination issues for this site. The developer should address risks to controlled waters from contamination at the site, following the requirements of the National Planning Policy Framework and the Environment Agency Guiding Principles for Land Contamination, which can be found here:

<https://www.gov.uk/government/publications/managing-and-reducing-land-contamination>

If during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

# Agenda Item 11



**REPORT TO:** Planning Committee

26 May 2021

**LEAD OFFICER:** Joint Director of Planning and Economic Development

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## Enforcement Report

### Executive Summary

1. On 30<sup>th</sup> April 2021 there were 290 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

Should Members wish for specific updates to be added to the Enforcement Report then please request these from the Principal Planning Enforcement Officer and they will be added to the next available Planning Committee.

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 had stopped for 28 days.

Planners are in continual discussions with the developer to rectify the issues. The outcomes of the Enforcement visits have been forwarded to the relevant planners and senior management. The site has been monitored and regular visits will continue to be carried out.

#### **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.

No application submitted and a prosecution file is being prepared.

### **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, 25/02/21 and 12/04/21 and the notice has not been complied with.

Meeting to be arranged with Area Team Manager with a view to authorising the commencement of a prosecution.

### **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:**

Will Holloway - Principal Enforcement Officer

Date: 30/04/21

Enforcement Cases Received and Closed

| Month – 2021              | Received | Closed |
|---------------------------|----------|--------|
| January 2021              | 34       | 43     |
| February 2021             | 53       | 27     |
| March 2021                | 31       | 21     |
|                           |          |        |
| 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 |
|-------------------------------|------------|-----------------------|
|                               | March 2021 | 2021                  |
| Enforcement                   | 1          | 0                     |
| Stop Notice                   | 0          | 0                     |
| Temporary Stop Notice         | 1          | 2                     |
| 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 March 2021

| Ref. no.    | Village   | Address  | Notice issued   |
|-------------|-----------|--|---|
| EN/00159/21 | Milton    | 25 Newfields Caravan Park<br>Chesterton Fen Road<br>Milton<br>Cambridge<br>Cambridgeshire<br>CB4 1TU | Temporary Stop Notice for alleged unauthorised development, namely a large detached structure without planning permission   |
| EN/01535/20 | Cottenham | The Land To The South Of Chear Fen Boat Club<br>Twentyence Road Cottenham<br>Cambridgeshire          | Without planning permission, the material change of use of land to a caravan site for residential use involving the siting of two sectional caravans and three touring caravans and the unauthorised development of concrete bases. |

Date: 30/04/21

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# Agenda Item 12



**South  
Cambridgeshire**  
District Council

**Report to:** Planning Committee

26 May 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 10 May 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)  
01954 713406

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## Appendix 1

### Decisions Notified By The Secretary of State

| Reference    | Address  | Details   | Decision  | Date       | Planning Decision |
|--------------|--|---|-----------|------------|-------------------|
| S/4518/19/FL | 7 Back Lane<br>Barrington  | Demolition of the existing bungalow, the erection of two new dwellings and works                                | Dismissed | 06/04/2021 | Non-Determination |
| S/3135/19/FL | Papworth Hall<br>Ermine Street<br>South Papworth<br>Everard<br>Cambridge<br>Cambridgeshire<br>CB23 3RD | Proposed Demolition Of Existing Building and Erection Of 4 X 4 Bedroom Town Houses and 2 X 2 Bedroom Apartments | Dismissed | 04/05/2021 | Refused           |

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Appeals Received

| Reference     | Address   | Details   | Date Appeal lodged |
|---------------|---|---|--------------------|
| 20/05393/S73  | Church View<br>Newmarket Road<br>Stow Cum Quy<br>CB25 9AQ               | Removal of condition 7 (Permitted development rights) of planning permission S/1929/13/FL (External Alterations and Conversion of Offices to Dwelling and Part Change of Use of Paddock Land to Garden Land.) | 09/04/2021         |
| 20/05001/HFUL | 23 Magna Close<br>Great Abington<br>CB21 6AF                            | Two storey front extension and single and double storey rear extension  | 09/04/2021         |
| 20/01499/OUT  | Land North Of<br>Westfield<br>Westfield<br>Willingham<br>Cambridgeshire | Outline planning permission for 4 No. self build dwellings with all matters reserved except for access.   | 07/05/2021         |

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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                 | 24/06/2021              |
| S/1625/18/OL | Mr A Ashley   | Land at Mill Lane, Sawston                  | Planning Decision                 | 24/06/2021              |
| 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                     |

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