

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

7th May 2008

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

S/0312/08/F - LINTON
Studio/Office Outbuilding at 8a The Grip for Dr P Blakeley

Recommendation: Approval

Date for Determination: 18th April 2008

Notes:

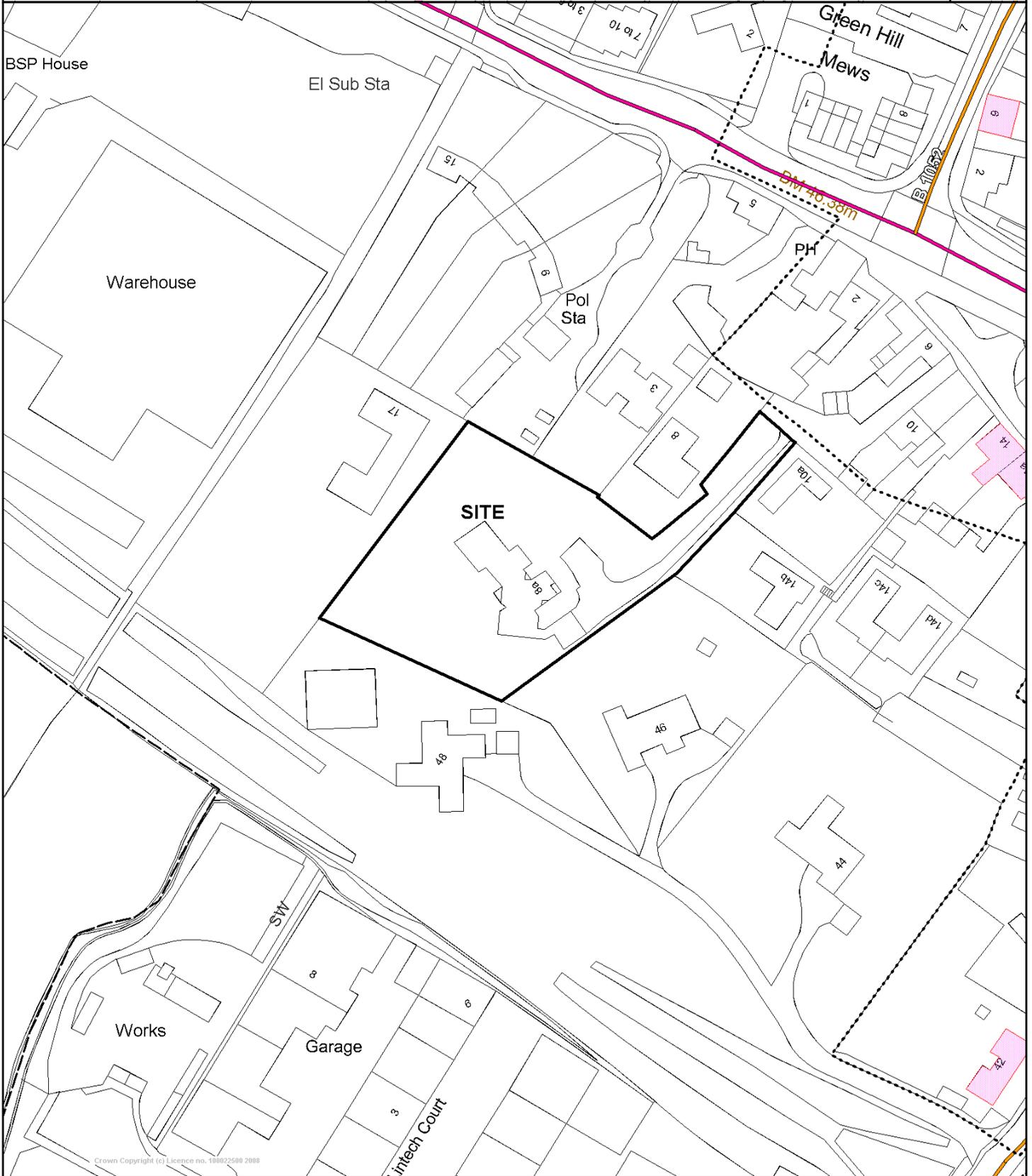
This Application has been reported to the Planning Committee for determination because the Officer recommendation is contrary to the response of the Parish Council, at the request of District Councillor Mrs Bear, and following consideration of the application at the Chairman's Delegation meeting held on 16th April 2008

Members of Committee will visit the site on Wednesday 7th May 2008

Site and Proposal

1. The application site is occupied by a brick and tile bungalow located approximately 100 metres to the south of the A1307, and accessed between Nos. 6 and 10 The Grip. The curtilage of the property occupies two distinctly different levels. The bungalow itself sits on lower ground at roughly the same level as adjoining properties to the south, Nos. 46 and 48 The Grip. On the west and south side of the dwelling is a much higher section of land that sits above the ridgeline of the bungalow itself and is at the same level as No.17 Cambridge Road to the west as well as a swimming pool building constructed within the raised garden area of No.48 The Grip. The land rises steeply between the lower and higher elements from east to west along the northern boundary of the site. Construction of a building measuring approximately 12.5 metres x 5.2 metres has commenced on the elevated part of the site to the south-west of the bungalow, adjacent to the boundary with No.17 Cambridge Road. The foundations and north-western boundary have been built and a gravelled access/wide pathway constructed alongside the northern and western boundaries.
2. The full application, submitted on 22nd February 2008, seeks to complete the development that has commenced on site. The building would be an asymmetrical design weatherboard and slate roof structure measuring 4 metres to the ridge. The eaves would be 3 metres high on the side adjoining No.17 Cambridge Road and 2.4 metres high on the side facing the applicant's own property. The structure would comprise a home office, studio, wash up area, toilet and hallway.
3. The application has been accompanied by a design and access statement which argues that the building constitutes permitted development under Class E of the General Permitted Development Order 1995 as the building would not provide independent or primary residential floor space. The statement confirms that the building would only be used in conjunction with the main dwelling and that the

S-0312-08-F LINTON



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premises would not be used for business purposes. The applicant paints as a hobby and proposes to use the studio area for this purpose, whilst the home office would be used in the same way as a study may be used within a house. The small kitchen area for tea making and toilet would reduce the need to return to the bungalow. The applicant is registered ambulant disabled and it would therefore be more convenient to have these facilities within the building. The ramped pathway provides a suitable gradient for the applicant to access the higher level of the garden. A more direct route from the rear of the house could be created with steps but this would not achieve the required disability access arrangements. The design and access statement also explains that the building may be used occasionally to provide additional residential accommodation for family members.

Planning History

4. **S/0996/92/O** – Outline planning permission granted for the erection of a bungalow on the site.
5. **S/1709/93/RM** – Reserved matters consent granted for the erection of a bungalow on the site.

Planning Policy

6. **Policy P1/3** of the Cambridgeshire and Peterborough Structure Plan 2003 stresses the need for a high standard of design and a sense of place which corresponds to the local character of the built environment.
7. **Policy DP/2** of the Local Development Framework Development Control Policies 2007 requires all new development to be of high quality design and to provide higher residential densities and a mix of housing types.
8. **Policy DP/3** states that permission will not be granted for proposals that would have an unacceptable adverse impact on (amongst other issues): residential amenity; from traffic generated; on village character; on the countryside and landscape character; from undue environmental disturbance; on ecological, wildlife and archaeological interests; and on flooding and flood risk.
9. **Policy CH/5** requires new development in or affecting a Conservation Area to be determined in accordance with national policy (PPG15), namely to preserve or enhance the character of the area.
10. **Policy CH/10** of the Local Development Framework 2007 states that, south of the A1307 bypass at Linton, further residential development will not be permitted other than improvements to existing properties. The supporting text to this policy goes on to say that this area is isolated from the main village and further residential development would not be sustainable with its poor access to the village facilities and services.

Consultations

11. **Linton Parish Council** recommends refusal, stating:
 - a) This application contravenes Policy CH/10 Linton Special Policy Area which clearly states that further residential development will not be permitted other than improvements to existing properties. This is not an improvement to the current property but a separate building, being completely independent and having its own driveway. The applicant has stated that ‘it will be used occasionally to

provide additional accommodation' (see Supporting Justification and Design and Access Statement page 10, 6.7). If permitted this building could be sold or let as a separate entity.

- b) This application contravenes Policy DP/3 of the South Cambridgeshire Local Development Framework Development Control Policies Development Plan Document 2007 which states that planning permission will not be granted where the proposed development would have an unacceptable adverse impact on residential amenity. The proposed building, by virtue of its height in relation to 8a The Grip and 17 Cambridge Road and proximity to the conservatory of 17 Cambridge Road does appear unduly dominant and overbearing and has an adverse impact on residential amenity.
 - c) The north window overlooks 17 Cambridge Road.
 - d) Council is extremely disappointed that the large spinney, protected by a covenant, has been removed.
 - e) Council is concerned that this site was previously quarried and request that this be investigated on the grounds of health and safety.
 - f) Council requests that a site visit is undertaken.
12. **The Conservation Manager** raises no objections, stating that the building is not located within the Conservation Area, nor is it adjacent to any listed buildings, so will not have a negative impact upon either.

Representations

13. Letters of objection have been received from Nos.10 and 46 The Grip, No.17 Cambridge Road, and from Stevens Solicitors (acting on behalf of the occupiers of No.17). The main points raised are:
- a) Why has the building been erected on the highest part of the site? If the building was constructed on the flat part of the site next to the dwelling, there would be no need for a wash up area and toilet, and for a separate vehicular width access;
 - b) A much smaller building would meet the applicant's needs;
 - c) Why has work started without planning permission?;
 - d) The building has been constructed on top of a chalk tunnel. The embankment has two chalk tunnels running into it and a spinney on top. The trees were given to the then occupants by the local authority in the 1970's. Some of these trees have been removed, and the construction of the building has therefore destroyed the character of the area;
 - e) The building would overlook No.46 The Grip and No.17 Cambridge Road;
 - f) The structure can be seen by all surrounding properties;
 - g) The art studio/office could be used for business purposes (perhaps an art school?) and potentially attract visitors. The applicant exhibits and sells paintings, including in a gallery in Linton;

- h) There is a wide vehicular access leading to the building;
- i) The proposed weatherboarding would be out of keeping with the character of the area which is typified by brick buildings;
- j) The former occupiers of the site put a covenant on the land to prevent the erection of anything other than a single storey dwelling with garage and outbuildings, and to prevent the construction of any windows above ground level. Solicitors acting on behalf of occupiers of No.46 The Grip have written to the occupiers of No.8a The Grip to advise them of this breach;
- k) There has been a change of use at the premises from residential to industrial business. Why were neighbours not consulted? Large lorries have been passing by, and causing damage to, No.6 The Grip;
- l) The development contravenes the Linton Policy which prevents new residential development on the south side of the A1307. The structure is obviously a separate dwelling;
- m) The applicant has used the police yard to access the site without proper authority.

Planning Comments – Key Issues

14. The key issues to consider in the determination of this application are:

- a) Use of the building;
- b) Impact upon character and appearance of area;
- c) Residential amenity;
- d) Loss of trees.

Use of building

- 15. The building that has been partly constructed is on the higher part of the site but within the defined residential curtilage of the property. The applicant's agent has sought to argue that the building constitutes permitted development under the section of the General (Permitted) Development Order (GDO) relating to residential outbuildings. The size and position of the building (ie – no more than 4 metres high, more than 5 metres from the house and not within 20 metres of a highway) do comply with the requirements of the GDO. However, to constitute permitted development, such buildings must be used for a purpose incidental to the enjoyment of the dwellinghouse only (eg – garaging/storage) and not for primary accommodation. The applicant is at liberty to apply for a Lawful Development Certificate to determine whether the proposal would or would not constitute permitted development.
- 16. An application has been requested solely on the basis of the proposed use of the building. Given that in all other respects the building complies with the requirements of the GDO and would not need planning permission if, say, used as a garage and workshop, I would argue that the merits of the application can only reasonably be considered insofar as they relate to the proposed use of the building.
- 17. Objections have been raised by the Parish Council and local residents on the basis that the proposal is considered to conflict with Policy CH/10 of the Local Development

Framework, which restricts residential development on the south side of the A1307 in Linton. I can understand these concerns given the size of the building, the fact it has been constructed on a separate part of the site to the main dwelling, and the fact that a vehicular width access has been created to the structure. However, the application is not seeking to use the building as a separate dwelling and the stipulations within Policy CH/10 do not therefore apply in this instance. The design and access statement makes it clear that there is no intention to use the proposed structure for business purposes. The use of the building can be controlled by a Section 106 legal agreement to ensure: that it is used for purposes ancillary to the dwelling only; that it is not used for business purposes; and that, if used for accommodation, it is occupied by family members only. If Members are minded to grant permission for the building, I would recommend that it be subject to the prior signing of such an agreement.

Impact upon character of area

18. The access to No.8a The Grip abuts the Linton Conservation Area, but the proposed building is situated approximately 90 metres away from the Conservation Area and even further away from the nearest Listed Building. The Conservation Manager is satisfied that the proposal does not result in harm to either the setting of the Conservation Area or nearby Listed Buildings.
19. The structure would comprise weatherboard walls and a slate roof. Whilst other buildings in the immediate area are constructed of brick, I do not consider the stipulated materials to be inappropriate or harmful to the character of the area.

Residential amenity

20. As stated in paragraph 15, the building, if used for different purposes, would constitute permitted development. Nevertheless, I have visited the neighbour at No.17 Cambridge Road in order to assess the impact of the building upon their amenities. The structure has been positioned such that the 3 metre high eaves are adjacent to the boundary with No.17 Cambridge Road. The building is approximately 8 metres away from the centrepiece of No.17's rear conservatory and I am therefore satisfied that it would not be unduly overbearing or cut out an unacceptable amount of light to the conservatory.
21. Windows are proposed in the north and east elevations of the building. The window in the north elevation would look towards the northern boundary of the site, rather than into No.17 Cambridge Road's private garden, whilst the windows in the east elevation would look down into No. 8a The Grip's garden. The finished building would be 34 metres away from the boundary with No.46 The Grip and just under 50 metres away from the neighbouring dwelling itself. As such, there would not be an unreasonable degree of overlooking of this neighbouring property from the structure.

Other matters

22. The applicant's agent states that trees have not been removed to enable the construction of the building. From the photographs submitted by neighbouring residents, this does not appear to be the case, and it seems that trees on the site have been removed. However, the site is not in a Conservation Area and there is no Tree Preservation Order covering the land so the spinney that covered the upper portion of the site did not have any statutory designation. As such, the applicant has not committed any offence in planning terms by removing the trees.

23. The applicant's agent has advised that the applicant's solicitor is of the view that no breach of the covenant attached to the land has occurred. The covenant states 'not to erect anything on the land.....other than a single storey dwelling with garage and other outbuildings....' As the structure is single storey, the legal view is that the terms of the covenant have not been contravened. Whether this is the case or not, this matter is not a material planning consideration. Even if planning permission is granted, the building may still be contrary to the covenant attached to the land, and could potentially be required to be removed under its terms. Granting planning consent would not override the terms of any covenant attached to the land.
24. With regards to concerns about the building being constructed on the site of an old quarry, the applicant's agent has confirmed that the site includes an old chalk pit which has been filled in. The existing bungalow is built on this pit and has concrete piles accordingly. The proposed building is not within the pit but on the top level which has not been quarried. The Design and Access Statement also confirms that the structure complies with Building Regulations, that the foundations have been inspected by RH Consulting, and that the structure has been built on solid chalk.

Recommendation

25. Subject to prior signing of a Section 106 Legal Agreement to ensure that the building would only be used for purposes ancillary to the domestic use of the main dwelling, including use as an annexe by family members only, approval subject to the following conditions:
1. No development shall resume until details of the colour of finish to be used for the weatherboarding have been submitted to and approved in writing by the Local Planning Authority; the development shall be carried out in accordance with the approved details (Rc5aii)
 2. No windows, doors or openings of any kind shall be inserted in the north-west side elevation of the building, hereby permitted, unless expressly authorised by planning permission granted by the Local Planning Authority in that behalf. (Reason – To safeguard the privacy of occupiers of No.17 Cambridge Road)

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

South Cambridgeshire Local Development Framework (LDF) 2007;
Cambridgeshire and Peterborough Structure Plan 2003;
Planning application references: S/0312/08/F, S/1709/93/RM and S/0996/92/O

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