

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

4 April 2012

AUTHOR/S: Corporate Manager (Planning and New Communities)

S/0272/12/PO – MELDRETH

**Application to Modify Planning Obligation of Planning Permission ref.
S/0903/19/O – 43 Chiswick End, Meldreth, Royston, SG8 6LZ for Mr & Mrs M K E
Prime**

Recommendation: Refuse

Date for Determination: 11 April 2012

Notes:

This Application has been reported to the Planning Committee as officers do not have delegated powers to determine applications for modification to planning obligations

Site and Proposal

1. 43 Chiswick End is a modest detached single storey dwelling of pleasant character. The dwelling is sited towards the far south western extent of Chiswick End at roughly the point where the metalled road surface makes a transition to a more informal surface. Chiswick End is a narrow lane with no vehicular through-access.
2. Adjacent to the south west of the dwelling in question is a commercial scrap yard that is enclosed by a fence comprising profiled metal sheeting. This scrap yard was regularised under an application for certificate of lawfulness ref.S/0413/93/LDC which confirms that the use for the business of a commercial scrapyards including the breaking of cars on site subject to the use being 'restricted primary to the breaking of cars (i.e. no vans or lorries)' and that the stacking of vehicles is not more than two high.
3. It is apparent that in 1991 (after the scrap yard was operational but before the LDC application) an application for a new residential bungalow was approved by the Council subject to a legal agreement that essentially ties the occupation of the bungalow to the scrapyards business adjacent i.e. the bungalow cannot be occupied by anyone other than a person or persons carrying on the business of a scrap merchant at the yard (or spouse, widow, widower or family etc). This bungalow is of course the dwelling known today as 43 Chiswick End and the application under consideration seeks to break this occupation tie with the adjacent scrap yard.

Planning History

4. S/0903/91/O - Erection of Dwelling - Approved subject to S106
S/2045/91/D - Erection of Dwelling (reserved matters) - Approved

S/0413/93/LDC - Use for a scrapyard (lawful development certificate) -
Certificate issued

Planning Policy

5. **South Cambridgeshire Local Development Framework Development Control Policies DPD 2007:**

DP/3 - Development Criteria

NE/15 - Noise Pollution

NE/16 - Emissions

Consultations (no representations received)

6. **Meldreth Parish Council** – Recommends refusal, commenting:

"The building is tied to the business and the Parish Council can see no reason why it should be split. Only one party appears to have requested that the schedule is taken out".

7. **Environmental Health Officer** - Recommends refusal, relaxation of the occupancy tie would result in potential harm to any occupant of no.43 through noise and disturbance and potentially odour and fumes. The Environmental Health Officer advises that a request for relaxation of the occupancy would only be supported where an application demonstrates a substantial noise insulation scheme and that the Council can be satisfied that restricted hours of use of the scrap yard can be enforced.

Planning Comments – Key Issues

8. The key issues to consider in the determination of these applications are:

- The impact upon residential amenity

Residential Amenity

9. The existing dwelling was only granted planning permission in lieu of the fact that the S106 agreement (ref.A228) was sufficient to satisfy the Council that any occupant of the dwelling would have a tie to the adjacent scrap yard business. In this respect any potential occupant would be in a position where he or she is fully aware of the noise and disturbance associated with the adjacent use and potentially be in a position of control in this regard.

10. Officers note from a site visit that the scrap yard may not be operational at present. However this is not a material consideration of the application at hand as clearly the lawful development certificate shows that the scrap yard use is lawful and operation could be intermittent.

11. Having regard to the comments of the Environmental Health Officer it is clear that a relaxation of the occupancy tie without any remedial measures proposed to increase sound insulation at the property or limit the hours of operation of the scrap yard would have the potential to significantly impact upon the residential amenity of any occupant of no.43 Chiswick End.

12. The applicant is not in a position to control the use of the scrap yard. This includes its hours of operation.
13. Whilst it may be possible to provide a noise insulation scheme. It is difficult for officers to conclude that a scheme could be effective without unduly harming the visual amenity of the area (i.e. a very high acoustically insulated fence). This must also be applied to a scheme for fume and odour mitigation.

Conclusion

14. 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 not be granted in this instance.

Recommendation

15. Refuse

Reason for Refusal

Removal of the occupancy tie that currently binds the occupation of no.43 Chiswick End to the operation of the adjacent scrap yard is considered to create the potential for significant harm to the residential amenity of any occupant of no.43 from noise and disturbance and fumes/odour from the adjacent commercial site. No measures to demonstrate that the occupants of the bungalow would be adequately protected from noise, disturbance, fumes and odour arising from the use of the scrap yard are proposed as part of or in addition to the application. To this end the proposals are considered to be contrary to policies DP/3, NE/15 & NE/16 of the South Cambridgeshire District Council Local Development Framework Development control Policies DPD 2007 that seek to ensure that development proposals do not result in significant adverse harm to residential amenity from noise and disturbance or air bourn emissions.

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

- South Cambridgeshire Local Development Framework 2007

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