



## SOUTH AREA COMMITTEE



### AGENDA

**To: City Councillors:** Ashton (Chair), Meftah (Vice-Chair), Birtles, Blackhurst, Dryden, McPherson, Pippas, Stuart and Swanson

**County Councillors:** Ashwood, Crawford and Taylor

*Dispatched: Friday, 11 April 2014*

**Date:** Wednesday, 23 April 2014

**Time:** 7.00 pm

**Venue:** Alison Shrubsole Room - Homerton College Hills Road Cambridge  
CB2 8PH

**Contact:** James Goddard

**Direct Dial:** 01223 457013

#### Exhibition Item

Please note that South Area Committee will not be discussing the Cambridge Sports Development Strategy as an agenda item. It will be a consultation item only.

### CAMBRIDGE SPORTS DEVELOPMENT STRATEGY AND RECREATION TEAM UPDATE

The City Council Sports Development Team have recently completed a period of consultation relating to the implementation of a new Sports and Physical Activity Strategy, which outlines the key priorities for the department over the next 3 years. Team representatives will be available to provide some brief information on these priorities and will give the opportunity for Area Committee Members and the public to have their say on how the team plan to implement these priorities within their areas. The Recreation Management Team will also be represented and on hand to discuss matters relating to leisure building developments in each area.

## Main Agenda Items

### 1 APOLOGIES FOR ABSENCE

### 2 DECLARATIONS OF INTEREST

Members of the committee are asked to declare any interests in the items on the agenda. In the case of any doubt, the advice of the Head of Legal should be sought **before the meeting**.

### 3 MINUTES *(Pages 7 - 20)*

To confirm the minutes of the meeting held on 3 March 2014. *(Pages 7 - 20)*

### 4 MATTERS AND ACTIONS ARISING FROM THE MINUTES

### 5 OPEN FORUM

Refer to the 'Information for the Public' section for rules on speaking.

### 6 AREA COMMITTEE GRANTS - SAC 23/04/14 *(Pages 21 - 34)*

### 7 SAC - CYCLE CITY AMBITION SEGREGATED CYCLE LANE SCHEME ON TRUMPINGTON ROAD *(Pages 35 - 38)*

### 8 PLANNING APPLICATIONS

#### Appendix 1 for Full Details of Central Government Planning Guidance

8a 13/1685/FUL - 241 Hills Road *(Pages 49 - 94)*

8b 13/1739/FUL - 2 and 2A Bishops Road *(Pages 95 - 126)*

8c 13/1836/FUL - Land to the r/o 1-8 Anstey Way *(Pages 127 - 152)*

8d 13/1863/FUL - 68 Mill End Road *(Pages 153 - 168)*

### 9 ENFORCEMENT ITEMS

9a 27 Babraham Roadi Update *(Pages 169 - 206)*

9b 27 Babraham Roadii Enforcement *(Pages 207 - 242)*

# Meeting Information

## Open Forum

Members of the public are invited to ask any question, or make a statement on any matter related to their local area covered by the City Council Wards for this Area Committee. The Forum will last up to 30 minutes, but may be extended at the Chair's discretion. The Chair may also time limit speakers to ensure as many are accommodated as practicable.

## Public Speaking on Planning Items

Area Committees consider planning applications and related matters. On very occasions some meetings may have parts, which will be closed to the public, but the reasons for excluding the press and public will be given.

Members of the public who want to speak about an application on the agenda for this meeting may do so, if they have submitted a written representation within the consultation period relating to the application and notified the Committee Manager that they wish to speak by **12.00 noon on the working day before the meeting.**

Public speakers will not be allowed to circulate any additional written information to their speaking notes or any other drawings or other visual material in support of their case that has not been verified by officers and that is not already on public file.

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Further information is also available online at

<https://www.cambridge.gov.uk/speaking-at-committee-meetings>

The Chair will adopt the principles of the public

speaking scheme regarding planning applications for general planning items and planning enforcement items.

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## **Representations on Planning Applications**

**Public representations** on a planning application should be made in writing (by e-mail or letter, in both cases stating your full postal address), within the deadline set for comments on that application. You are therefore strongly urged to submit your representations within this deadline.

**Submission of late information** after the officer's report has been published is to be avoided. A written representation submitted to the Environment Department by a member of the public after publication of the officer's report will only be considered if it is from someone who has already made written representations in time for inclusion within the officer's report.

Any public representation received by the Department after 12 noon two working days before the relevant Committee meeting (e.g. by 12.00 noon on Monday before a Wednesday meeting; by 12.00 noon on Tuesday before a Thursday meeting) will not be considered.

The same deadline will also apply to the receipt by the Department of additional information submitted by an applicant or an agent in connection with the relevant item on the Committee agenda (including letters, e-mails, reports, drawings and all other visual material), unless specifically requested by planning officers to help decision-making.

## **Filming, recording and photography**

The Council is committed to being open and transparent in the way it conducts its decision-



making. Recording is permitted at council meetings, which are open to the public. The Council understands that some members of the public attending its meetings may not wish to be recorded. The Chair of the meeting will facilitate by ensuring that any such request not to be recorded is respected by those doing the recording.

Full details of the City Council's protocol on audio/visual recording and photography at meetings can be accessed via:

<http://democracy.cambridge.gov.uk/ecSDDisplay.aspx?NAME=SD1057&ID=1057&RPID=42096147&sch=doc&cat=13203&path=13020%2c13203>

**Fire Alarm** In the event of the fire alarm sounding please follow the instructions of Cambridge City Council staff.

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A loop system is available on request.

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**Queries reports** on If you have a question or query regarding a committee report please contact the officer listed at the end of relevant report or Democratic Services on 01223 457013 or [democratic.services@cambridge.gov.uk](mailto:democratic.services@cambridge.gov.uk).

**General Information** Information regarding committees, councilors and the democratic process is available at <http://democracy.cambridge.gov.uk/>



**SOUTH AREA COMMITTEE**3 March 2014  
7.00 - 10.15 pm**Present****Area Committee Members:** Councillors Ashton (Chair), Meftah (Vice-Chair), Blackhurst, McPherson, Pippas, Stuart, Swanson**Area Committee Members:** County Councillors Ashwood and Taylor

Councillor Taylor left after the vote on item 14/20/SAC

Councillor Ashwood left after the vote on item 14/21/SACa

Councillor Pippas left after the vote on item 14/21/SACc

**Officers:**

Principal Planning Officer: Toby Williams

Senior Planning Officer: John Evans

Committee Manager: James Goddard

**Other Officers in Attendance:**

Cycling Projects Team Leader (County Council): Mike Davies

Police Sergeant: James Stevenson

**FOR THE INFORMATION OF THE COUNCIL****14/11/SAC Apologies for Absence**

Apologies were received from Councillors Birtles, Crawford and Dryden.

**14/12/SAC Declarations of Interest**

<b>Name</b>	<b>Item</b>	<b>Interest</b>
Councillor Pippas	14/21/SACd	Personal and prejudicial: Lives in the same road as the application. Withdrew from discussion and did not vote.

Councillor Swanson	14/21/SACd	Personal: Knows the applicant.
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### **14/13/SAC Minutes**

The minutes of the 13 January 2014 meeting were approved and signed as a correct record.

### **14/14/SAC Re-Ordering Agenda**

Under paragraph 4.2.1 of the Council Procedure Rules, the Chair used his discretion to alter the order of the agenda items. However, for ease of the reader, these minutes will follow the order of the agenda.

### **14/15/SAC Matters and Actions Arising from the Minutes**

- i. **14/5/SAC Open Forum “Action Point: Councillor Taylor to discuss issue of safety on shared cyclist / pedestrian pavements with County Council Highways Officers.”**

Councillor Taylor has liaised with Councillor Crawford and the County Council Cycling Team. Proposals for schemes are being worked on currently.

- ii. **14/5/SAC Open Forum “Action Point: Councillor Ashton (as Committee Chair) to write to local schools and colleges to invite students to attend future South Area Committee meetings.”**

Letters have been written to the Principals of Long Road College, Hills Road College and Netherhall School. To date, only acknowledgements of receipt have been received.

- iii. **14/9/SAC Consultation on Draft Community Safety Partnership Priorities 2014-15 “Action Point: Liz Bisset to signpost details regarding immobilize.com.”**

Details were circulated to South Area Committee (SAC) Members and will also be published on the Community Safety webpage.

- iv. **14/7/SAC Developer Contributions Devolved Decision-Making: 2nd Round Priority-Setting “Action Point: Tim Wetherfield to check if multi-use games areas are located in each city ward.”**

MUGAs can be found at: Nightingale Ave Rec, Trumpington Rec, St Alban's Road Rec, Nuns Way, Romsey Rec and Thorpe Way. There is also a half-size MUGA at Kathleen Elliot Way and a junior MUGA is to be installed at Coleridge Rec this spring.

It may also help to know that there are basketball courts at: Trumpington Rec; St Matthews Rec; Romsey Rec; Nun's Way; Green End Road; Ditton Fields and Coldham's Lane.

### **14/16/SAC Decisions Taken Regarding S106 Projects**

#### **14/16/SACa SAC RoD - Cherry Hinton Recreation Play Area Improvements**

The decision was noted.

#### **14/16/SACb SAC RoD - Improvements to Cherry Hinton Recreation Ground Skate Park**

The decision was noted.

#### **14/17/SAC Open Forum**

1. **Dr Harris informed SAC about progress regarding the pedestrian bridge across Hobson's Conduit:**
  - **The outline planning application was approved in November 2012 for a bridge to link two communities across the waterway.**
  - **The Hobson Conduit Bridge Group has been constituted as a not for profit group. They are seeking a licence from the City Council to construct the bridge. A consultation is required before work can occur. The consultation is due to start 1 June 2014.**
  - **Asked for clarification on the consultation purpose and process.**
  - **Asked SAC to help take the bridge proposal forward.**

Councillor Ashton referred to the response from Adrian Ash (Interim Head of Services, Streets and Open Spaces) sent immediately prior to

this SAC meeting. There were legal matters that needed to be addressed before the bridge could be taken forward. Councillor Ashton responded on behalf of SAC to say that the Committee would be happy to support the bridge proposal, but had to be mindful of the legal issues raised in the Interim Head of Services, Streets and Open Spaces' email.

**ACTION POINT: Councillor Ashton to discuss with Councillor Reiner (Executive Councillor for Public Places) and Adrian Ash (Interim Head of Services, Streets and Open Spaces) how to expedite issue of Hobson Conduit bridge to implement it as quickly as possible.**

Councillor Stuart said that SAC were aware the project aimed to bring communities together. She had been advised by officers that a consultation was required in June 2014 as it may raise different issues to one held previously. As a land owner of one of the river banks where the bridge would be located, the City Council felt duty bound to ensure people have an opportunity to make their views known.

- 2. Mr Weir said the Hobson Conduit Bridge was an important issue to the County Council, officers supported the proposal. Mr Weir suggested that both the City and County Councils may wish to adopt the bridge.**
- 3. Mr Cray asked City and County Council Councillors and Officers to support the Hobson Conduit Bridge proposal.**

#### **14/18/SAC Policing and Safer Neighbourhoods - South Area Committee**

The Committee received a report from Sergeant Stevenson regarding the policing and safer neighbourhoods trends.

The report outlined actions taken since the Committee on 4 November 2013. The current emerging issues/neighbourhood trends for each ward were also highlighted (see report for full details). Previous priorities and engagement activity noted in the report were:

- Reduce the theft of pedal cycles in the Newtown area.
- Combat the supply of drugs in South area.
- Tackle vehicle parking offences around school premises across the South area and in Mill End Road.

Members of the public asked a number of questions, as set out below.

**1. Ms Turpington raised the following issues:**

- **She works with Camsight and RNIB.**
- **Raised concerns regarding obstructions on the pavement.**
- **Suggested there was a lack of pavement space in the south area when construction workers were undertaking road works/resurfacing.**
- **Parking on the pavement forced people to walk in the road.**
- **Safety signs placed on pavements were hazards as people could fall over them.**

Sergeant Stevenson said that parking on pavements was only illegal when it caused an obstruction. He asked members of the public to report any incidents on the Police 101 telephone number. The Police were particularly interested to know if deliveries were being made to specific premises, so that the Police could talk to premises owners and delivery drivers.

The Committee discussed the following policing issues:

- i. Pavement parking in the south area of the city.
- ii. Issues relating to Balfour Beatty streetlight replacement work. SAC were advised concerns should be reported to the County Council or Balfour Beatty out of hours number to be addressed.
- iii. Motorists encroaching on premise's/people's driveways or 'H' lines in front of driveways when parking.
- iv. Parking in front of schools obstructing residents and other drivers. The inconvenience caused could be described as anti-social behaviour. Traffic Wardens were asked to ticket obstructive drivers if this was discharged as a police priority.
- v. Thefts from motor vehicles in the Queen Edith's and Trumpington areas. Specifically vehicles parked on construction sites. This was less of an issue in Queen Edith's as construction sites were smaller and in residential areas, which provided less chances for opportunist thieves.
- vi. The supply of drugs in the south area.
- vii. The number of burglaries in the Queen Edith's area affecting commercial and domestic buildings.

The following priorities were unanimously **agreed**:

- i. Combat the supply of drugs in the South area.
- ii. Target the increase in dwelling burglary in the Cherry Hinton area.
- iii. Target the increase in thefts from motor vehicles in the Trumpington area.

Sergeant Stevenson reiterated that members of the public could report any incidents on the Police 101 number. This would allow the Police to build up intelligence on criminal activities.

SAC expressed their thanks to Sergeant Stevenson and team for all their hard work.

### **14/19/SAC Hills Road Traffic and Safety Scheme**

The Committee received a report from the Cycling Projects Team Leader.

The report informed SAC Members about the proposal for traffic and road safety improvements on Hills Road, between Cherry Hinton Road and Long Road. The proposals aimed to improve conditions for pedestrians, bus users and cyclists. Public consultation for the scheme runs from 4 March to 7 April 2014.

The Cycling Projects Team Leader made the following additional points:

- i. Cambridge had successfully applied for Department for Transport Cycle City funding.
- ii. The intention was to make cycling a sustainable form of transport in Cambridge, together with walking and public transport.
- iii. People did not feel safe cycling, the project hoped to change this perception.
- iv. Three options would be consulted upon from 4 March to 7 April 2014.
  - Option 1 - Fully segregated cycle lanes.
  - Option 2 - Raised kerb (hybrid) segregated cycle lanes.
  - Option 3 – A combination of the fully segregated and raised kerb cycle lanes.
- v. The new segregated cycle routes would complement the City Council's rollout of 20mph zones and cycle parking, as well as other cycling projects in the city including The Chisholm Trail and the new station multi storey cycle park.
- vi. "Floating bus stops" would be included in the Plan, as used in London and Brighton.
- vii. Welcomed the views of SAC.

In response to Members' questions the Cycling Projects Team Leader said the following:

- i. Cyclists would have priority at floating bus stops. This would be monitored in trials and could be amended through the consultation.



- ii. The purpose of the Traffic and Safety Scheme was to upgrade facilities for bus and cycle users.
- iii. City and County Council Access Officers had been involved in the project to ensure the views of disabled, mobility and sensory impaired people were represented. Local schools and colleges had also been engaged to seek their views.
- iv. Officers were happy to engage with resident groups directly, or through the consultation process. This was available on the County Council website <http://www.cambridgeshire.gov.uk/CMSWebsite/Apps/News/Details.aspx?ref=1330>, or people could telephone 0345 045 5200 to make their views known.
- v. March - April public consultation materials would include a leaflet, photo-montages and coloured. Events are planned on the following dates:
  - 6 March, St John the Evangelist Church, 5:00 – 7:30pm.
  - 14 March, Addenbrooke's concourse, 11am - 2pm.
  - 26 March, The Perse School, 6:30 – 8:30pm.
  - In addition, engagement events are planned at Hills Road and Long Road Colleges.
- vi. Public exhibitions could include mocked up pavement areas using tape to give people an idea of dimensions.

### **14/20/SAC SAC Meeting Dates 2014/15**

The committee approved the committee dates for 2014/15 as follows:

- 23 June 2014
- 18 August 2014
- 13 October 2014
- 8 December 2014
- ~~3 February 2015~~
- 2 February 2015
- 30 March 2015

### **14/21/SAC Planning Items**

#### **14/21/SACa 13/1742/FUL - 14 Barrow Road**

The Committee received an application for full planning permission.

The application sought approval for demolition of the existing dwelling and erection of new replacement dwelling.

The Committee received representations in objection to the application from the following:

- Mr Khalil
- Dr Bullock

The representations covered the following issues:

- i. Residents have applied for the road to be a Conservation Area.
- ii. Raised the following concerns:
  - The application sought to demolish and replace, rather than modernise the existing house. The existing house should be retained.
  - The design was out of character with the area. It was not a suitable substitute for the existing buildings' arts and crafts style.
  - Height, scale, mass, construction and materials of the proposed building.
  - The building would dominate and overshadow neighbours.
- iii. Took issue with details in the Officer's report relating to Local Plan policies 3/1, 3/4, 3/6 and 3/12.
- iv. Referred to representations in the Officer's report, including those from "expert" interested parties, and suggested these had not been given sufficient consideration.
- v. Asked for the proposal to be dismissed, or postponed pending the determination of the Barrow Road Conservation Area application, or receipt of independently commissioned expert architectural evidence.

Mr Smith (Applicant) and Mr Riley (Applicant's Agent) addressed the Committee in support of the application.

Councillor Ashwood (Trumpington Ward County Councillor) addressed the Committee about the application.

The representation covered the following issues:

- i. The existing building arts and crafts style should be protected.
- ii. Trumpington had become a concrete jungle.

- iii. Nice-looking houses attracted people to Cambridge, which was good for the economy.
- iv. Supported the Barrow Road Conservation Area application.
- v. Asked for the proposal to be dismissed, or postponed pending the determination of the Barrow Road Conservation Area application.

The Committee:

**Resolved (by 5 votes to 2)** to grant the application for planning permission in accordance with the officer recommendation, for the reasons set out in the officer report, and subject to the conditions recommended by the officers.

*Summary of Reason for Approval*

In voting to endorse the officer recommendation for approval of the application, South Area Committee (SAC) were mindful of the significant number of objections/concerns from local residents, Cambridge Past, Present and Future, the Twentieth Century Society, English Heritage and the Council's Conservation and Design Team. In particular, it was noted that the existing Arts and Crafts house was an attractive example of a house from its period, that it complimented the character and appearance of an attractive road and that local residents had aspirations for Barrow Road to become a Conservation Area. Members of SAC were mindful that there was no evidence put forward by the applicants to demonstrate that, from sustainable and heritage perspectives, the house could not be retained and extended; acknowledging the recent approval of extensions to the property (13/0270/FUL).

It was acknowledged by SAC that the proposed house did not exhibit a number of features which would mean that it was a completely faithful replication of an Arts and Crafts house from this period; in particular the depth of the rear projection into the garden, the flat roofed element, the fenestration pattern and proposed symmetrical as opposed to existing asymmetrical design. However, SAC concluded that to a large extent the objections were seeking to require a refusal of planning permission on the basis of residents' aspirations for a Conservation Area and that the test for demolition in the first place should be higher and that demolition should not be allowed pending the assessment and likely endorsement of Conservation Area status.

SAC were mindful that the existing building was neither Listed nor Local Listed and was unlikely to merit either status in the future. Importantly, SAC noted that there was no formally designated Conservation Area encompassing

Barrow Road. On this basis, there were no reasonable grounds on which to resist the principle of demolition of the house, particularly as demolition of it would not require planning permission in its own right and was permitted development.

SAC took into account the fact that the proposed house was of a lesser width than the existing house at first floor to the road, that the ridge height was similar to the dwellings either side, that the front building line was in keeping with its neighbours and that the frontage landscaping would be respectful to the spacious and landscaped quality of Barrow Road. The increased depth to the rear was not determined to be necessarily out of keeping with other large extensions to the rear of properties along Barrow Road or that it would prejudice the amenity of neighbouring properties in terms of enclosure, privacy or loss of light. Neither was it considered that, when viewed from oblique angles, the deeper footprint would be harmful to the street scene. The design of the proposed house was acceptable in its own right and was respectful and in keeping with its context.

Members of SAC had sufficient information upon which to determine the application and there was no reasonable basis upon which to defer a decision, especially as the applicants had the right to appeal against non-determination. Members of SAC were advised of the timescales for appeal and how this might/might not affect the Council's and appellants' case if the application was refused. In weighing up all of the merits for the application against the objections for its refusal, on balance Members of SAC considered the application to accord with adopted policy, particularly policies 3/4, 3/11 and 3/12 of the Cambridge Local Plan (2006) and guidance contained within the National Planning Policy Framework 2012 and that there was no sound planning reason for refusal.

### **14/21/SACb 13/1613/FUL - 6A Bentinck Street**

The Committee received an application for full planning permission.

The application sought approval for to subdivide the plot to accommodate an additional two storey dwelling house (with additional accommodation in the roof) and reconfigure the curtilage of the host property. The single storey rear extension and side boundary wall which fronts Bentinck Street are proposed to be demolished.

The Principal Planning Officer proposed an amendment to the Officer's recommendation that permitted developer rights should be removed from the site.

This amendment was **carried nem con**.

The Committee received a representation in objection to the application from Miss Nettleship.

The representation covered the following issues:

- i. Bentinck Street was in a Conservation Area.
- ii. The design was out of keeping with the area.
- iii. The site was not a vacant plot as listed in the Design and Access Statement.
- iv. The Planning Officer's comments appeared to be rebutted by the Design and Conservation Officer regarding:
  - Roof design.
  - Window proportions.
  - Garden wall.
  - Fake chimney.

The Committee:

**Resolved (by 6 votes to 0)** to grant the application for planning permission in accordance with the officer recommendation, for the reasons set out in the officer report, and subject to the conditions recommended by the officers and an additional condition:

'Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no extensions, or additions or garages shall be erected other than those expressly authorised by this permission.

Reason: To protect the amenity of adjoining properties, and to prevent overdevelopment of the site. (Cambridge Local Plan 2006 policies 3/4 and 3/14)'.

**14/21/SACc 13/1836/FUL - Land to Rear of 1 - 8 Anstey Way**

The Committee received an application for full planning permission.

The application sought approval for erection of two semi-detached four bedroom houses.

The Principal Planning Officer advised SAC that the report contained typographical errors listing Objector's addresses as Anstey Way instead of Lingrey Court.

The Committee received a representation in objection to the application from Mr Brown.

The representation covered the following issues:

- i. Felt the design and access statement photos were inaccurate.
- ii. Raised the following concerns:
  - The development was out of character with the area.
  - Design was imposing and unsympathetic to neighbours.
  - Overshadowing.
  - Impact on neighbour's amenities.
  - Over intensive development of site.
  - Road safety concerns.

The Committee:

**Resolved (unanimously)** to defer the application to allow further information and revised designs to come forward to support the case for the character and appearance of the building.

**14/21/SACd 14/0020/FUL - 33 Queen Ediths Way**

Councillor Pippas withdrew from the meeting for this item and did not participate in the discussion or decision making.

The Committee received an application for full planning permission.

The application sought approval for the demolition of the existing dwelling and the development of a three storey building comprising seven (six two-bed and

one three-bed) residential flats. The proposal also includes seven car parking spaces, a lockable cycle store for fourteen cycles, and an enclosed refuse storage area located to the north of the building and amenity space to the south. A new cycle and pedestrian access would also be created in the front boundary.

The Committee received a representation in objection to the application from Ms Haigh.

The representation covered the following issues:

- i. Took issue with the application design, not development of the site in principle.
- ii. Queried the materials/colouring to be used. Suggested the design should reflect its location (character of area).
- iii. Referred to the grounds for appeal on the last iteration of the application.
- iv. Asked for the design to be scrutinised by the Design and Conservation Team.

Mr Davidson (Applicant's Agent) addressed the Committee in support of the application.

The Committee:

**Resolved (by 6 votes to 0)** to grant the application for planning permission in accordance with the officer recommendation, for the reasons set out in the officer report, and subject to the conditions recommended by the officers.

The meeting ended at 10.15 pm

**CHAIR**

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To: **South Area Committee - 23<sup>rd</sup> April 2014**

Report by: Jackie Hanson, Operations & Resources Manager,  
Community Development

Wards affected: Cherry Hinton, Queen Edith's, Trumpington

## Community Development and Arts & Recreation Development

### AREA COMMITTEE GRANTS 2014-15

#### 1. Executive summary

1.1 This report details applications received to date for 2014-15 funding for projects in the South Area, makes recommendations for awards and provides information on the eligibility and funding criteria.

#### 2. Recommendations

The South Area Committee Councillors are recommended:

- 2.1 To consider the grant applications received, officer comments and proposed awards detailed in Appendix 1
- 2.2 To agree the proposed awards detailed in Appendix 1 and summarised in the table below:

Ref	Organisation	Purpose	Award £
S1	Accordia Community and Residents Assoc	Community website hosting	£1,161
S2	Accordia Social Housing - Families	Trip to Twin Lakes theme park	£671
S3	Cambridge Royal Albert Benevolent Soc	Trip to Thursford Music Hall	£550
S4	The Centre at St Paul's	Three trips, inc two boat trips	£300
S5	Cherry Hinton Festival Society	Festival 2014 interactive installations	£5,000
S6	Cherry Hinton Football Club	Improvement to the playing surface	£4,950
S7	Denis Wilson Court Social Club	Trip to Hunstanton	£400
S8	Denis Wilson Court Social Club	"Celebration of Age" party	£500
S9	Denis Wilson Court Social Club	Christmas luncheon	£220
S10	Denis Wilson Court Social Club	Sunday brunch 2015	0
S11	Friends of Cherry Hinton Hall	Festival of Fur and Feathers	£295
S12	Hanover Court and Princes Court R A	Events, outing and activities	£1,610
S13	Huxley Group	Trip to Shrepreth Wildlife Park	£304
S14	Newtown area - families living in	Trip to Paradise Wildlife Park	£344
S15	Queen Edith Community Forum	3 editions of newsletter	£1,650
S16	Queen Edith's Community Forum	Three events	£850
S17	St Andrews Glebe Residents Association	BBQ, outings (x 4), activities, social	£514

S18	St Andrews Tuesday Afternoon Club	Activities, parties and trips	<b>£100</b>
S19	Trumpington Bowls Club	Crockery	<b>£1,000</b>
S20	Trumpington Elderly Action Group	8 meetings, trip, outing and party	<b>£1,000</b>
S21	Trumpington Elderly Action Group (D Sparks)	Six separate coach trips	<b>£1,000</b>
S22	Trumpington Residents Association	Trip to Hunstanton	<b>£500</b>
S23	Trumpington Stitchers at the Pavilion	Room hire and 4 activity days	<b>£900</b>
S24	Trumpington Women's Institute	95th anniversary celebration	<b>£275</b>
S25	Trumpington Youth Group (c/o TRA)	3 day residential trip.	<b>£1,100</b>

<b>Budget available</b>	<b>25,984</b>
<b>Total awards</b>	<b>25,194</b>
<b>Budget remaining</b>	<b>790</b>

### 3. Background

#### 3.1 Management

Funding has been devolved to Area Committees for local projects meeting the Community Development, Sports or Arts strategic priorities since 2004. This process is managed by the Community Development Grants Team who promote the funding and bring applications for consideration to one meeting of each of the area committees annually.

The 2014-15 grants were publicised, via neighbourhood workers and members, in local publications and voluntary organisations newsletters, by posters and publicity leaflets and previous applicants were also invited to apply.

#### 3.2 Funding Available

There is a total of £124,920 available across the four area committees for 2014-15 made up as follows:

- § £86,000 Community Development
- § £18,920 Arts and Recreation Development
- § £20,000 Safer City

The Community and Arts and Recreation Development budgets have been merged and divided between the area committees in accordance with population and poverty calculations. The safer city allocation has provided £5,000 for each area committee. The amount available for each area is as follows:

<b>Committee</b>	<b>CD &amp; AR %</b>	<b>CD &amp; AR £</b>	<b>Safer City £</b>	<b>Total available £</b>
North	37.8	39,660	5,000	44,660
East	32.2	33,784	5,000	38,784
<b>South</b>	<b>20</b>	<b>20,984</b>	<b>5,000</b>	<b>25,984</b>
West Central	10	10,492	5,000	15,492
<b>Total</b>	<b>100</b>	<b>104,920</b>	<b>20,000</b>	<b>124,920</b>

#### 3.3 Eligibility Criteria and Funding Priorities

Applications are invited from voluntary organisations, community groups and groupings of local residents that are able to meet basic accountability requirements.

Priority is given to projects that are aimed at those people whose opportunities are restricted by disability, low income or discrimination. Projects should meet the Community Development, Arts and Recreation Development priorities detailed in Appendix 2.

This year the priorities also reflect the contribution from Safer City funds, to include projects which reduce anti-social behaviour, crime and the fear of crime. This is also detailed in Appendix 2.

The maximum any organisation can apply for is £5,000 per area committee and grants cannot be made retrospectively. Full details of the eligibility criteria are available on request.

#### **3.4 Year Round Applications**

Applications will be considered on an individual basis after the main grants round until all the funding is spent. Officers will make decisions on awards up to £5,000 as approved by the Community Services Scrutiny in January 2014.

Officers will circulate updates on applications and awards twice a year. In December 2014 the area budgets will be merged and any funding remaining will be allocated across the areas as applications are received to ensure effective use of the funds available.

#### **3.5 2013-14 Awards**

After the end of the financial year we will collect the monitoring reports for awards made during 2013-14 and circulate a summary to members. A list of awards to date for 2013-14 is attached as Appendix 3.

#### **3.6 Funding Agreements**

All awards are subject to funding agreements and monitoring reports. We consider proportionate requirements dependent on the size of the organisation, project and award.

#### **3.7 Review of Community Development and Arts & Recreation Development Grants**

The Executive Councillor for Community Wellbeing approved a review of the above grant priorities and budget at the Community Services Scrutiny Committee in January 2014. The consultation is currently underway with an online survey and workshops arranged to comment on proposals.

A report will be taken back to that committee in July 2014 making recommendations for future priorities and budget allocation.

## Appendix 1 - South Area Committee Grant Applications and Recommendations 2014-15

Ref	Organisation	Purpose	Aim of activity	Beneficiaries	Budget	Bid	Award
<b>S1</b>	<b>Accordia Community and Residents Association</b>	1. Big Outdoors music event. 2. Marquee and amplifier. 3. Community website	Get together, community building tool, keeping approx 1,000 residents up to date	1000	Full cost: 1. £1755 2. £1300 3. £161	1.1225 2. 1300 3. 161	<b>£1,161</b>
	Officer comment	Recommend 1. £800 2. £200 3. £161 contributions. Fundraise and collect contributions for event end equipment			Income: 1. £500		
	Previous 2 years funding	13-14: £350 £700 £100			only		
<b>S2</b>	<b>Accordia Social Housing - Families</b>	Summer trip to Twin Lakes theme park. Costs include coach hire and entrance fee.	To give families on low income an opportunity to look forward to activities in the holidays.	25+	Full cost: £871 Income: £200	£671	<b>£671</b>
	Officer comment	Recommend full amount					
	Previous 2 years funding	13-14: £565					
<b>S3</b>	<b>Cambridge Royal Albert Benevolent Society</b>	Autumn trip to Thursford Music Hall	Boost morale, help members to get away from it all.	20 Older people plus 6 North	Full cost: £1,540 Income: £840	£700	<b>£550</b>
	Officer comment	Most of the people on the trip are residents of the CRABH in Trumpington ward, but they join with Victoria Homes in West Chesterton ward for the trip. Recommending £150 North AC contribution					
	Previous 2 years funding	13-14: £360					
<b>S4</b>	<b>The Centre at St Paul's</b>	Three trips (two boat trips on River Cam and one trip to Suffolk Punch Trust near Woodbridge) for the Thursday lunch group.	Provide outings for people with a limited income and recreational opportunities. Vulnerable adults who are either past/present mental health service users or have learning difficulties.	14 South, 10 East	Full cost: £770 Income: £195	£575	<b>£300</b>
	Officer comment	Recommend £275 balance form East AC					
	Previous 2 years funding	13-14: £1,000, £500, £150 12-13: £300					

Ref	Organisation	Purpose	Aim of activity	Beneficiaries	Budget	Bid	Award	
S5	<b>Cherry Hinton Festival Society</b>	Interactive, artistic set of installations that will run for the duration of the festival on 20 September 2014.	To bring art and performance into the community and make it accessible for everyone, including those with disabilities, children, older people and disadvantaged individuals.	4,000	Full cost: £6,400 Income: £1,400	£5,000	<b>£5,000</b>	
	Officer comment	Recommend amount requested						
	Previous 2 years funding	13-14: £620 12-13: £2,300						
S6	<b>Cherry Hinton Football Club</b>	Further improvement to the playing surfaces for weekend matches as well as structured training sessions at the Recreation ground.	To further improve the playing surfaces at the local recreation ground.	100 South, 20 East, 20 North. Includes children aged 11-17 years.	Full cost: £4,950 Income: no info provided	£4,950	<b>£4,950</b>	
	Officer comment	Recommend full amount alongside pavilion and ground development.						
	Previous 2 years funding	12-13: £1200						
S7	<b>Denis Wilson Court Social Club</b>	Trip to Hunstanton. Costs are coach hire and theatre tickets.	To visit the theatre at Hunstanton	30-35 older people	Full cost: £829 Income: none	£829	<b>£400</b>	
	Officer comment	Recommend contribution to coach costs only. Other bids S8,9,10.						
	Previous 2 years funding	13-14: £1,145 12-13: £750 £440 £700						
S8	<b>Denis Wilson Court Social Club</b>	"Celebration of Age" party. Costs are supper and entertainer.	To bring our residents together	50-60, older people	Full cost: £500 Income: none	£500	<b>£500</b>	
	Officer comment	Recommend full cost						
	Previous 2 years funding	As before						

Ref	Organisation	Purpose	Aim of activity	Beneficiaries	Budget	Bid	Award	
S9	<b>Denis Wilson Court Social Club</b>	Christmas luncheon	Many residents have no relatives and we like to encourage them to leave the Court.	30-35 older people, some disabled	Full cost: £780 Income: £240	£540	<b>£220</b>	
	Officer comment	Recommend contribution only						
	Previous 2 years funding	As before						
S10	<b>Denis Wilson Court Social Club</b>	Sunday brunch 2015	To bring our residents together to celebrate the new year.	50	Full cost: £250 Income: none	£250	<b>£0</b>	
	Officer comment	Recommend no contribution as for food only. Suggest collect donations from other events to cover this. Total increased grant to this organisation						
	Previous 2 years funding	As before						
S11	<b>Friends of Cherry Hinton Hall</b>	Contribution to costs of insurance, grounds hire and publicity for "Festival of Fur and Feathers".	Provide a free event for local residents, including those with disabilities, children.	1,000	Full cost: £500 Income: charge for stalls etc	£295	<b>£295</b>	
	Officer comment	Recommend full amount requested for free event						
	Previous 2 years funding	13-14: £600						
S12	<b>Hanover Court and Princes Court Residents Association</b>	Summer event and outing Christmas event, monthly craft activities, equipment/ artwork for new community room.	Bring residents, increase social cohesion and reduce isolation, encourage neighbourliness and sustain the residents association.	450 including older people, children and those with disabilities.	Full cost: £2,020 Income: £410	£1,610	<b>£1,610</b>	
	Officer comment	Recommend full amount requested						
	Previous 2 years funding	13-14: £1,923 12-13: £900 £260						
S13	<b>Huxley Group</b>	Day trip to Shrepreth Wildlife Park.	Give residents an opportunity to get to know each other and get out	30 including children and some with disabilities.	Full cost: £379 Income: £75	£304	<b>£304</b>	
	Officer comment	Recommend full amount requested						
	Previous 2 years funding	none						

Ref	Organisation	Purpose	Aim of activity	Beneficiaries	Budget	Bid	Award
S14	<b>Newtown area - families living in</b>	Trip to Paradise Wildlife Park.	To make new friends and meet new families. Educating the children about the animals.	40 including children.	Full cost: £444 Income: £100	£344	<b>£344</b>
	Officer comment	Recommend full amount requested					
	Previous 2 years funding	13-14 £215, £236					
S15	<b>Queen Edith Community Forum - newsletter</b>	Contribute to cost of printing, editing and delivering 3 editions of newsletter	To continue fostering a sense of community in the local area.	4,000	Full cost: £1,800 Income: none	£1,800	<b>£1,650</b>
	Officer comment	Seeking 100% funding. Recommend finding sponsors/advertising contribution to cover editorial costs					
	Previous 2 years funding	13-14: £1,000 £2,000 12-13: £500 £350 £500 £500 - may be incorrect					
S16 Page 27	<b>Queen Edith's Community Forum - events</b>	Four events; Environment Day, Fun on the Rec, Flu jab session and Christmas event.	To foster a sense of community, by encouraging people to be green and improve appearance of the area, socialise and exercise, disseminate useful information to the elderly.	300-500	Full cost: £1,340 Income: £340	£1,000	<b>£850</b>
	Officer comment	Income is carry forward. Flu clinic is a health activity - no funding for this aspect.					
	Previous 2 years funding	13-14: £1,000 £2,000 12-13: £500 £350 £500 £500 - may be incorrect					
S17	<b>St Andrews Glebe Residents Association</b>	Programme of social activities; Easter barbeque, summer outings (x 4), afternoon tea with guest speakers or craft activities and Sunday social.	Reduce social isolation amongst the elderly and disabled residents and their families. Improve the quality of life at the St Andrews Glebe.	30-40+. Older people aged 55-95 years including some with disabilities.	Full cost: £1,797 Income: £1,000 plus £284 of carry forward.	£513	<b>£514</b>
	Officer comment	Recommend full amount requested					
	Previous 2 years funding	none					

Ref	Organisation	Purpose	Aim of activity	Beneficiaries	Budget	Bid	Award
<b>S18</b>	<b>St Andrews Tuesday Afternoon Club</b>	Social activities, weekly talks, entertainment, parties and trips. Costs include speakers, outings, parties, Christmas lunch and rent.	See people enjoying themselves, getting out and about, mixing with other people so they are not lonely and bring a smile to their faces.	30-40 Older people including those with disabilities.	Full cost: £3,487 Income: £1,500 plus £1,700 carry forward	£500	<b>£100</b>
	Officer comment	High reserves and unspent grant. They do not need the amount requested.					
	Previous 2 years funding	13-14: £1,550					
<b>S19</b>	<b>Trumpington Bowls Club</b>	Replacement of a mismatched set of crockery for use with the Bowls games refreshments.	To be involved in a competitive, social and friendly sport.	46 but expected to rise with the development	Full cost: £1,953 Income: £453	£1,500	<b>£1,000</b>
	Officer comment	Recommend contribution as high quotation for items.					
	Previous 2 years funding	13-14: £1,473 12-13: £1250 £800					
<b>S20</b>	<b>Trumpington Elderly Action Group</b>	Contribution to 8 meetings, summer trip, Christmas outing and New Year party.	To keep elderly people active in the community.	37	Full cost: £2,445 Income: £930 plus £520 of carry forward.	£1,095	<b>£1,000</b>
	Officer comment	Recommend contribution as they have a surplus					
	Previous 2 years funding	13-14: £1,336 12-13: £462 £347					
<b>S21</b>	<b>Trumpington Elderly Action Group (for Donald Sparks)</b>	Six separate coach trips for local residents.	Give disadvantaged and vulnerable people a chance to get away to the seaside or shopping for the day.	210	Full cost: £3,041 Income: £1,488	£1,553	<b>£1,000</b>
	Officer comment	Recommend contribution as high number of trips and same beneficiaries					
	Previous 2 years funding	13-14: £964 12-13: £870					



Ref	Organisation	Purpose	Aim of activity	Beneficiaries	Budget	Bid	Award
S22	<b>Trumpington Residents Association</b>	Community summer trip to Hunstanton	To enable a cross section of residents to have a day at the seaside, with a particular emphasis on disadvantaged families, children and the elderly who would not otherwise be able to have a day away and to encourage community cohesion between residents in the established village and the new developments.	130	Full cost: £1,550 Income: £1,050	£500	<b>£500</b>
	Officer comment	Recommend full amount requested					
	Previous 2 years funding	13-14: DRR 12-13: DRR					
S23	<b>Trumpington Stitchers at the Pavilion</b>	Contribution to weekly room hire and quarterly family activity day themed on various stitching projects.	To enable residents to learn sewing skills, share experiences and knowledge, create new links with the growing Trumpington	13	Full cost: £2,226 Income: £1,164	£1,062	<b>£900</b>
	Officer comment	Recommend reduction of machine servicing as this will be covered by another source					
	Previous 2 years funding	none					
S24	<b>Trumpington Women's Institute</b>	95th anniversary celebration	To celebrate somewhere special rather than our usual meeting venue.	35 all over 50	Full cost: £905 Income: £630	£275	<b>£275</b>
	Officer comment	Recommend contribution to the coach hire asked for					
	Previous 2 years funding	none					

Ref	Organisation	Purpose	Aim of activity	Beneficiaries	Budget	Bid	Award		
S25	Trumpington Youth Group (c/o TRA)	Contribution towards a 3 day residential trip.	Young people will develop skills through trust building activities, team work and confidence building. This will enhance group and community cohesion, giving them new experiences and activities, a sense of adventure, independence and responsibility. The majority that attend are from lower socio-economic backgrounds and would not often get to experience this type of opportunity.	12 Young people including those with learning disabilities and from a BME background.	Full cost: £2,900 Income: £1,800	£1,100	<b>£1,100</b>		
								Officer comment	Recommend full amount requested
								Previous 2 years funding	none

### Community Development

#### Community Activities

##### 1. Activities which support children and young people and families experiencing disadvantage:

- § to provide children and young people with opportunities to participate in positive activities, engage in democratic processes, and improve the quality of life in neighbourhoods
- § to meet the needs of children and young people in the areas of growth or demographic change

##### 2. Activities which support

- § **BME groups**
- § **people with disabilities**
- § **LGBT groups**
- § **women** lacking opportunities to live safe and fulfilling lives
- § **community cohesion** - activities helping people from different backgrounds to integrate into the Cambridge community and to get on well together

##### 3. Activities which support older people to live socially and physically active lives.

**Consideration will be given to specific activities and services that enable those groups and individuals to participate in their communities and improve their own well-being.** Activities must include one or more of the following:

- § supporting those who are disadvantaged by low income/ disability/ discrimination
- § proposals that enable people to participate in decisions and influence the services that affect their lives
- § bringing people together to identify common issues and to bring about change
- § investigating local needs and developing responsive projects
- § increasing the awareness of and celebrating the city's cultural diversity

*It is not for personal care services, proselytising or worship or services which are the responsibility of other statutory agencies*

##### 4. Social and Economic Deprivation

Projects, services or activities which promote **Economic Inclusion.**

- § Supporting organisations that help individuals to overcome barriers to participation in the City's economy.
- § Support, advice and guidance for workless people and those at the risk of worklessness to gain the confidence, motivation, skills and qualifications to engage in rewarding employment or entrepreneurial activities.

## Arts & Recreation

### 1. Improve access to leisure activities

A targeted approach to improving access to arts and sports for city residents who currently have restricted access, particularly including:

- ⌘ Minority Ethnic Groups
- ⌘ People with disabilities
- ⌘ People on low incomes
- ⌘ Children, young people and older people at risk of exclusion from leisure opportunities
- ⌘ Residents with low levels of participation in cycling activity (particularly women and people from the above priority groups)

### 2. Enhance the City's cultural offer

Arts and sports activities that enhance Cambridge's cultural offer by doing some or all of the following:

- ⌘ Celebrating Cambridge's cultural identity or local traditions
- ⌘ Benefiting the local economy
- ⌘ Reflecting the city's creative reputation through being new, innovative, and ambitious
- ⌘ Promoting environmental sustainability
- ⌘ Showcase and celebrate the arrival of the Tour de France in Cambridge in 2014

### 3. Encourage and support local neighbourhood arts and sports activities that enhance current provision and are for the benefit of local residents

## Safer City

For projects that help tackle:

1. Crime
2. The fear of crime
3. Anti-social behavior

### Appendix 3 – 2013-14 Awards

Group	Purpose	Award
Accordia Community Residents Association	Big Outdoors music event	700
Accordia Community Residents Association for Families living in Accordia Social Housing	Summer trip to Yarmouth	455
Centre at St Pauls	New electric ovens	1,000
Denis Wilson Court Social Club	Theatre trip, CCA, Christmas and New year events	1,145
Hanover and Princess Court Residents' Association	Summer outing, Sept barbeque, Christmas event, community room launch	1,923
Newtown Residents' Association	Website development	1,500
Rawlyn Court Resident's Association	Country and Western evening	340
St Andrew's Tuesday Club	Social activities: talks, parties, trips	1,550
The Cherry Hinton Townswomen's Guild	50th Anniversary	300
Trumpington Bowls Club	Equipment for bowls games	1,473
Trumpington Elderly Action Group	8 meetings, summer trip, christmas outing, new year party	1,336
Queen Edith Community Forum	4 newsletters (quarterly)	2,000
Queen Edith Community Forum	Environment Day	400
Queen Edith Community Forum	Fun on the Rec event	300
Queen Edith Community Forum	Christmas event	300
Cherry Hinton Festival	Storage refund of 2012-13 award	-1,700
Accordia Community Residents Association	Trip to Yarmouth August 2013	110
Centre at St Paul's	60th Coronation Anniversary Party	500
Trumpington Elderly Action Group	Coach trips	964
Centre at St Pauls (Newtown families)	Trip to Shepreth Wildlife Park	215
Centre at St Pauls (Newtown families)	Trip to Paradise Wildlife Park	236
Cherry Hinton Festival	Advertising, launch and insurance	620
Centre at St Paul's	Boat trip	150
Royal Albert Homes	Trip for older people	360
Accordia Residents Association	Christmas Tree event	100
Friends of Cherry Hinton Hall	Purchase of equipment for Community Action Days + safety training	600
		<b>16,877</b>

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## TRUMPINGTON ROAD TRAFFIC AND SAFETY SCHEME

### **Note to Members of Cambridge City – South Area Committee**

**From: Mike Davies, Team Leader - Cycling Projects, Cambridgeshire County Council**

#### **1.0 INTRODUCTION**

1.1 The purpose of this paper is to inform Members about the emerging proposals for traffic and road safety improvements on Trumpington Road, between Chaucer Road and Bateman Street. The proposals aim to improve conditions for pedestrians, bus users and cyclists. Public consultation is due to take place in May. The views of the Committee are welcomed.

#### **2.0 BACKGROUND**

2.1 The proposed scheme will be funded by the Department for Transport (Dft) Cycle City Ambition Grant which Cambridgeshire County Council and seven other local authorities were successful in bidding for last year. In the original bid, the County Council proposed to deliver a safe, direct, comprehensive network for cycling and walking between key destinations in Cambridge and in South Cambridgeshire. Over a ten year period, the aim is for cycling to have 40% of modal share in Cambridge, and 20% in South Cambs. The growth of housing and businesses in the Greater Cambridge area will put increasing pressure on the transport network. To mitigate the impacts of growth, modal shift must be achieved and the new segregated schemes included in the bid will provide much improved, high capacity cycling facilities which it is hoped will encourage new cyclists amongst existing residents and commuters, and future cycling by residents of the new developments when they are occupied. It is important that residents, who move to the city see cycling as a safe, attractive and convenient form of transport.

2.2 In Cambridge, it is proposed to build segregated cycle lanes along sections of three main arterial routes: Hills Road, Huntingdon Road and Trumpington Road. The new cycle lanes will upgrade existing cycle routes and link economic clusters such as Addenbrookes with businesses in the city. In South Cambridgeshire, the provision of new and improved cycle routes is progressing well. All of the Cycle City Ambition schemes must be built by May 2015.

- 2.3 The new segregated cycle routes will compliment the City Council's extensive rollout of 20mph zones and cycle parking, as well as other ambitious cycling projects in the city including The Chisholm Trail and the new station multi storey cycle park.
- 2.4 A Stakeholder group has been formed, to discuss and debate the details of each Cycle City Ambition scheme, with the aim of achieving very high quality schemes. Bodies represented include Cambridge City Council, South Cambridgeshire District Council, Sustrans, CTC (the Cyclists Touring Club), Cambridge Cycling Campaign, Girton Parish Council and Babraham Research Campus.
- 2.5 On 8<sup>th</sup> November 2013 a Stakeholder Workshop run by independent facilitators took place at The Botanic Gardens. This was attended by representatives of local schools and businesses, the Botanic Gardens, Cambridge Cycling Campaign, Sustrans and CTC (Cyclists' Touring Club). The event was extremely useful in being able to consider possible options, and for stakeholders to understand each others' concerns and issues.

### **3.0 DETAILS OF THE PROPOSED SCHEME**

- 3.1 The budget for the Trumpington Road segregated cycleway improvements is £400,000.
- 3.2 A design is being developed for public consultation, which at this stage may include some or all of the following elements:
- Loss of Pay and Display parking on the north side, in favour of a two-way segregated cycle lane.
  - Address issues at the junction of Bateman Street to minimise potential conflict between cyclists and other vehicles
  - Removal of the two narrow advisory on road cycle lanes.
  - Conversion of two lane exit from Chaucer Road to single lane exit, to provide a shorter crossing for pedestrians and cyclists.
  - Relocation of an out-bound bus stop.
  - Relocation of pedestrian crossing near Bateman Street.

*At the time of writing the report the actual scheme to be consulted on is still being finalised.*

- 3.3 The existing footway on the north side adjacent to Hobson's Conduit, sloping grassed bank and existing granite kerb face will all be retained and left untouched, other than the removal of ticket machines and signs and posts relating to pay and display parking.



- 3.4 A new bi directional cycle lane would recognise and assist the movement being made by lots of school children between Brooklands Avenue and Bateman Street, whilst still being able to accommodate commuting cyclists travelling from the city centre to locations such as the station, Addenbrookes and Trumpington.
- 3.5 City bound cyclists could have the option of either remaining on a shared use path or using the road, but the existing narrow on road lane would be removed so that confident cyclists could ride in a more central, dominant position without fear of being hit by opening car doors or feeling intimidated by motorists who consider that they should be confined to the narrow lane.
- 3.6 The relocation of the bus stop would remove any requirement to consider an island/floating bus stop as part of the scheme. Such a stop would have the added complication of having a two-way cycleway at the back of it. The relocated stop is still close to the Botanic Gardens which is likely to be the key destination for bus users in this area.
- 3.7 The crossing near Bateman Street could move even closer to Bateman Street to give city bound cyclists a convenient and safe way of crossing back to the other side of the road.

#### **4.0 NEXT STEPS**

- 4.1 The public consultation runs throughout May. Materials include a leaflet, photo-montages, coloured plans and web pages on the County Council website. The leaflet will be delivered to local residents and businesses. Three consultation events are planned – *at the time of writing the details haven't been finalized. Members of South Area Committee will be updated at the meeting.*
- 4.2 The County Council is moving to a committee system on 13th May 2014. The scheme will be considered for approval by the Economy and Environment committee on 8<sup>th</sup> July. If the scheme is approved works will need to start before 1<sup>st</sup> May 2015.

#### **5.0 SUMMARY**

- 5.1 Members of the Area Committee are asked to comment on the scheme proposals, and are encouraged to attend the consultation events.

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## **APPENDIX 1 – DEVELOPMENT PLAN POLICY, PLANNING GUIDANCE AND MATERIAL CONSIDERATIONS**

### **1.0 Central Government Advice**

**1.1 National Planning Policy Framework (March 2012)** – sets out the Government’s economic, environmental and social planning policies for England. These policies articulate the Government’s vision of sustainable development, which should be interpreted and applied locally to meet local aspirations.

**1.2 Circular 11/95 – The Use of Conditions in Planning Permissions:** Advises that conditions should be necessary, relevant to planning, relevant to the development permitted, enforceable, precise and reasonable in all other respects.

**1.3 Community Infrastructure Levy Regulations 2010** – places a statutory requirement on the local authority that where planning permission is dependent upon a planning obligation the obligation must pass the following tests:

(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.

### **2.0 Cambridgeshire and Peterborough Structure Plan 2003**

Planning Obligation Related Policies

P6/1 Development-related Provision

P9/8 Infrastructure Provision

P9/9 Cambridge Sub-Region Transport Strategy

### **3.0 Cambridge Local Plan 2006**

3/1 Sustainable development

3/3 Setting of the City

3/4 Responding to context

3/6 Ensuring coordinated development

3/7 Creating successful places

3/9 Watercourses and other bodies of water

3/10 Subdivision of existing plots

3/11 The design of external spaces

3/12 The design of new buildings

3/13 Tall buildings and the skyline

3/14 Extending buildings

3/15 Shopfronts and signage

- 4/1 Green Belt
- 4/2 Protection of open space
- 4/3 Safeguarding features of amenity or nature conservation value
- 4/4 Trees
- 4/6 Protection of sites of local nature conservation importance
- 4/8 Local Biodiversity Action Plans
- 4/9 Scheduled Ancient Monuments/Archaeological Areas
- 4/10 Listed Buildings
- 4/11 Conservation Areas
- 4/12 Buildings of Local Interest
- 4/13 Pollution and amenity
- 4/14 Air Quality Management Areas
- 4/15 Lighting

- 5/1 Housing provision
- 5/2 Conversion of large properties
- 5/3 Housing lost to other uses
- 5/4 Loss of housing
- 5/5 Meeting housing needs
- 5/7 Supported housing/Housing in multiple occupation
- 5/8 Travellers
- 5/9 Housing for people with disabilities
- 5/10 Dwelling mix
- 5/11 Protection of community facilities
- 5/12 New community facilities
- 5/15 Addenbrookes

- 6/1 Protection of leisure facilities
- 6/2 New leisure facilities
- 6/3 Tourist accommodation
- 6/4 Visitor attractions
- 6/6 Change of use in the City Centre
- 6/7 Shopping development and change of use in the District and Local Centres
- 6/8 Convenience shopping
- 6/9 Retail warehouses
- 6/10 Food and drink outlets.

- 7/1 Employment provision
- 7/2 Selective management of the Economy
- 7/3 Protection of Industrial and Storage Space
- 7/4 Promotion of cluster development
- 7/5 Faculty development in the Central Area, University of Cambridge
- 7/6 West Cambridge, South of Madingley Road
- 7/7 College and University of Cambridge Staff and Student Housing
- 7/8 Anglia Ruskin University East Road Campus
- 7/9 Student hostels for Anglia Ruskin University
- 7/10 Speculative Student Hostel Accommodation
- 7/11 Language Schools

8/1 Spatial location of development  
8/2 Transport impact  
8/4 Walking and Cycling accessibility  
8/6 Cycle parking  
8/8 Land for Public Transport  
8/9 Commercial vehicles and servicing  
8/10 Off-street car parking  
8/11 New roads  
8/12 Cambridge Airport  
8/13 Cambridge Airport Safety Zone  
8/14 Telecommunications development  
8/15 Mullard Radio Astronomy Observatory, Lords Bridge  
8/16 Renewable energy in major new developments  
8/17 Renewable energy  
8/18 Water, sewerage and drainage infrastructure

9/1 Further policy guidance for the Development of Areas of Major Change  
9/2 Phasing of Areas of Major Change  
9/3 Development in Urban Extensions  
9/5 Southern Fringe  
9/6 Northern Fringe  
9/7 Land between Madingley Road and Huntingdon Road  
9/8 Land between Huntingdon Road and Histon Road  
9/9 Station Area

10/1 Infrastructure improvements

#### Planning Obligation Related Policies

3/7 Creating successful places  
3/8 Open space and recreation provision through new development  
3/12 The Design of New Buildings (*waste and recycling*)  
4/2 Protection of open space  
5/13 Community facilities in Areas of Major Change  
5/14 Provision of community facilities through new development  
6/2 New leisure facilities  
8/3 Mitigating measures (*transport*)  
8/5 Pedestrian and cycle network  
8/7 Public transport accessibility  
9/2 Phasing of Areas of Major Change  
9/3 Development in Urban Extensions  
9/5 Southern Fringe  
9/6 Northern Fringe  
9/8 Land between Huntingdon Road and Histon Road  
9/9 Station Area  
10/1 Infrastructure improvements (*transport, public open space, recreational and community facilities, waste recycling, public realm, public art, environmental aspects*)

#### 4.0 **Supplementary Planning Documents**

- 4.1 **Cambridge City Council (May 2007) – Sustainable Design and Construction:** Sets out essential and recommended design considerations of relevance to sustainable design and construction. Applicants for major developments are required to submit a sustainability checklist along with a corresponding sustainability statement that should set out information indicated in the checklist. Essential design considerations relate directly to specific policies in the Cambridge Local Plan 2006. Recommended considerations are ones that the council would like to see in major developments. Essential design considerations are urban design, transport, movement and accessibility, sustainable drainage (urban extensions), energy, recycling and waste facilities, biodiversity and pollution. Recommended design considerations are climate change adaptation, water, materials and construction waste and historic environment.
- 4.2 **Cambridgeshire and Peterborough Waste Partnership (RECAP): Waste Management Design Guide Supplementary Planning Document (February 2012):** The Design Guide provides advice on the requirements for internal and external waste storage, collection and recycling in new residential and commercial developments. It provides advice on assessing planning applications and developer contributions.
- 4.3 **Cambridge City Council (January 2008) - Affordable Housing:** Gives advice on what is involved in providing affordable housing in Cambridge. Its objectives are to facilitate the delivery of affordable housing to meet housing needs and to assist the creation and maintenance of sustainable, inclusive and mixed communities.
- 4.4 **Cambridge City Council (March 2010) – Planning Obligation Strategy:** provides a framework for securing the provision of new and/or improvements to existing infrastructure generated by the demands of new development. It also seeks to mitigate the adverse impacts of development and addresses the needs identified to accommodate the projected growth of Cambridge. The SPD addresses issues including transport, open space and recreation, education and life-long learning, community facilities, waste and other potential development-specific requirements.
- 4.5 **Cambridge City Council (January 2010) - Public Art:** This SPD aims to guide the City Council in creating and providing public art in Cambridge by setting out clear objectives on public art, a clarification of policies, and the means of implementation. It covers public art delivered through the planning process, principally Section 106 Agreements (S106), the commissioning of public art using the S106 Public Art Initiative, and outlines public art policy guidance.
- 4.6 **Old Press/Mill Lane Supplementary Planning Document (January 2010)** Guidance on the redevelopment of the Old Press/Mill Lane site.

## **Eastern Gate Supplementary Planning Document (October 2011)**

Guidance on the redevelopment of the Eastern Gate site. The purpose of this development framework (SPD) is threefold:

- To articulate a clear vision about the future of the Eastern Gate area;
- To establish a development framework to co-ordinate redevelopment within the area and guide decisions (by the Council and others); and
- To identify a series of key projects, to attract and guide investment (by the Council and others) within the area.

### **5.0 Material Considerations**

#### **Central Government Guidance**

#### **5.1 Letter from Secretary of State for Communities and Local Government (27 May 2010)**

The coalition government is committed to rapidly abolish Regional Strategies and return decision making powers on housing and planning to local councils. Decisions on housing supply (including the provision of travellers sites) will rest with Local Planning Authorities without the framework of regional numbers and plans.

#### **5.2 Written Ministerial Statement: Planning for Growth (23 March 2011)**

Includes the following statement:

When deciding whether to grant planning permission, local planning authorities should support enterprise and facilitate housing, economic and other forms of sustainable development. Where relevant and consistent with their statutory obligations they should therefore:

- (i) consider fully the importance of national planning policies aimed at fostering economic growth and employment, given the need to ensure a return to robust growth after the recent recession;
- (ii) take into account the need to maintain a flexible and responsive supply of land for key sectors, including housing;
- (iii) consider the range of likely economic, environmental and social benefits of proposals; including long term or indirect benefits such as increased consumer choice, more viable communities and more robust local economies (which may, where relevant, include matters such as job creation and business productivity);
- (iv) be sensitive to the fact that local economies are subject to change and so take a positive approach to development where new economic data suggest that prior assessments of needs are no longer up-to-date;

(v) ensure that they do not impose unnecessary burdens on development.

In determining planning applications, local planning authorities are obliged to have regard to all relevant considerations. They should ensure that they give appropriate weight to the need to support economic recovery, that applications that secure sustainable growth are treated favourably (consistent with policy in PPS4), and that they can give clear reasons for their decisions.

### 5.3 City Wide Guidance

**Arboricultural Strategy (2004)** - City-wide arboricultural strategy.

**Biodiversity Checklist for Land Use Planners in Cambridgeshire and Peterborough (March 2001)** - This document aims to aid strategic and development control planners when considering biodiversity in both policy development and dealing with planning proposals.

**Cambridge Landscape and Character Assessment (2003)** – An analysis of the landscape and character of Cambridge.

**Cambridge City Nature Conservation Strategy (2006)** – Guidance on habitats should be conserved and enhanced, how this should be carried out and how this relates to Biodiversity Action Plans.

**Criteria for the Designation of Wildlife Sites (2005)** – Sets out the criteria for the designation of Wildlife Sites.

**Cambridge City Wildlife Sites Register (2005)** – Details of the City and County Wildlife Sites.

**Cambridge and South Cambridgeshire Strategic Flood Risk Assessment (November 2010)** - a tool for planning authorities to identify and evaluate the extent and nature of flood risk in their area and its implications for land use planning.

**Strategic Flood Risk Assessment (2005)** – Study assessing the risk of flooding in Cambridge.

**Cambridge and Milton Surface Water Management Plan (2011)** – A SWMP outlines the preferred long term strategy for the management of surface water. Alongside the SFRA they are the starting point for local flood risk management.

**Cambridge City Council (2011) - Open Space and Recreation Strategy:** Gives guidance on the provision of open space and recreation facilities through development. It sets out to ensure that open space in Cambridge meets the needs of all who live, work, study in or visit the city and provides a satisfactory environment for nature and enhances the local townscape, complementing the built environment.



The strategy:

- sets out the protection of existing open spaces;
- promotes the improvement of and creation of new facilities on existing open spaces;
- sets out the standards for open space and sports provision in and through new development;
- supports the implementation of Section 106 monies and future Community Infrastructure Levy monies

As this strategy suggests new standards, the Cambridge Local Plan 2006 standards will stand as the adopted standards for the time-being. However, the strategy's new standards will form part of the evidence base for the review of the Local Plan

**Balanced and Mixed Communities – A Good Practice Guide (2006) –** Produced by Cambridgeshire Horizons to assist the implementation of the Areas of Major Change.

**Green Infrastructure Strategy for the Cambridgeshire Sub-Region (2006)** - Produced by Cambridgeshire Horizons to assist the implementation of the Areas of Major Change and as a material consideration in the determination of planning applications and appeals.

**A Major Sports Facilities Strategy for the Cambridge Sub-Region (2006) -** Produced by Cambridgeshire Horizons to assist the implementation of the Areas of Major Change.

**Cambridge Sub-Region Culture and Arts Strategy (2006) -** Produced by Cambridgeshire Horizons to assist the implementation of the Areas of Major Change.

**Cambridgeshire Quality Charter for Growth (2008) –** Sets out the core principles of the level of quality to be expected in new developments in the Cambridge Sub-Region

**Cambridge City Council - Guidance for the application of Policy 3/13 (Tall Buildings and the Skyline) of the Cambridge Local Plan (2006) (2012) -** sets out in more detail how existing council policy can be applied to proposals for tall buildings or those of significant massing in the city.

**Cambridge Walking and Cycling Strategy (2002) –** A walking and cycling strategy for Cambridge.

**Protection and Funding of Routes for the Future Expansion of the City Cycle Network (2004) –** Guidance on how development can help achieve the implementation of the cycle network.

**Cambridgeshire Design Guide For Streets and Public Realm (2007):** The purpose of the Design Guide is to set out the key principles and aspirations that should underpin the detailed discussions about the design of streets and public spaces that will be taking place on a site-by-site basis.

**Cycle Parking Guide for New Residential Developments (2010) –** Gives guidance on the nature and layout of cycle parking, and other security measures, to be provided as a consequence of new residential development.

**Air Quality in Cambridge – Developers Guide (2008) -** Provides information on the way in which air quality and air pollution issues will be dealt with through the development control system in Cambridge City. It compliments the Sustainable Design and Construction Supplementary Planning Document.

**The Cambridge Shopfront Design Guide (1997) –** Guidance on new shopfronts.

**Roof Extensions Design Guide (2003) –** Guidance on roof extensions.

**Modelling the Costs of Affordable Housing (2006) –** Toolkit to enable negotiations on affordable housing provision through planning proposals.

## 5.6 Area Guidelines

**Cambridge City Council (2003)–Northern Corridor Area Transport Plan:  
Cambridge City Council (2002)–Southern Corridor Area Transport Plan:  
Cambridge City Council (2002)–Eastern Corridor Area Transport Plan:  
Cambridge City Council (2003)–Western Corridor Area Transport Plan:**  
The purpose of the Plan is to identify new transport infrastructure and service provision that is needed to facilitate large-scale development and to identify a fair and robust means of calculating how individual development sites in the area should contribute towards a fulfilment of that transport infrastructure.

**Buildings of Local Interest (2005) –** A schedule of buildings of local interest and associated guidance.

**Brooklands Avenue Conservation Area Appraisal (2002)  
Cambridge Historic Core Conservation Area Appraisal (2006)  
Storeys Way Conservation Area Appraisal (2008)  
Chesterton and Ferry Lane Conservation Area Appraisal (2009)  
Conduit Head Road Conservation Area Appraisal (2009)  
De Freville Conservation Area Appraisal (2009)  
Kite Area Conservation Area Appraisal (1996)  
Newnham Croft Conservation Area Appraisal (1999)  
Southacre Conservation Area Appraisal (2000)  
Trumpington Conservation Area Appraisal (2010)  
Mill Road Area Conservation Area Appraisal (2011)**

### **West Cambridge Conservation Area Appraisal (2011)**

Guidance relating to development and the Conservation Area including a review of the boundaries.

### **Jesus Green Conservation Plan (1998)**

### **Parkers Piece Conservation Plan (2001)**

### **Sheeps Green/Coe Fen Conservation Plan (2001)**

### **Christs Pieces/New Square Conservation Plan (2001)**

Historic open space guidance.

### **Hills Road Suburbs and Approaches Study (March 2012)**

### **Long Road Suburbs and Approaches Study (March 2012)**

### **Barton Road Suburbs and Approaches Study (March 2009)**

### **Huntingdon Road Suburbs and Approaches Study (March 2009)**

### **Madingley Road Suburbs and Approaches Study (March 2009)**

### **Newmarket Road Suburbs and Approaches Study (October 2011)**

Provide assessments of local distinctiveness which can be used as a basis when considering planning proposals

**Station Area Development Framework (2004)** – Sets out a vision and Planning Framework for the development of a high density mixed use area including new transport interchange and includes the **Station Area Conservation Appraisal**.

**Southern Fringe Area Development Framework (2006)** – Guidance which will help to direct the future planning of development in the Southern Fringe.

**West Cambridge Masterplan Design Guidelines and Legal Agreement (1999)** – Sets out how the West Cambridge site should be developed.

**Mitcham's Corner Area Strategic Planning and Development Brief (2003)** – Guidance on the development and improvement of Mitcham's Corner.

**Mill Road Development Brief (Robert Sayle Warehouse and Co-Op site) (2007)** – Development Brief for Proposals Site 7.12 in the Cambridge Local Plan (2006)

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# Agenda Item 8a

**SOUTH AREA COMMITTEE**

**Date: 23<sup>rd</sup> APRIL 2014**

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<b>Application Number</b>	13/1685/FUL	<b>Agenda Item</b>	
<b>Date Received</b>	26th November 2013	<b>Officer</b>	Mr Amit Patel
<b>Target Date</b>	21st January 2014		
<b>Ward</b>	Queen Ediths		
<b>Site</b>	241 Hills Road Cambridge CB2 8RW		
<b>Proposal</b>	Demolition of existing 3 bedroom property, construction of 3no. townhouses with associated parking, bin and cycle storage, landscaping.		
<b>Applicant</b>	Mr Czes Sobanda 241 Hills Road Cambridge CB2 8RW		

SUMMARY	<p>The development does not accord with the Development Plan for the following reasons:</p> <ul style="list-style-type: none"><li>-The development will be detrimental to the character and appearance of the area, particularly Hills Avenue.</li><li>-The development will have a detrimental impact upon the neighbouring ground floor flat at Homerton Court.</li><li>-The development fails to provide good quality living accommodation for future occupiers.</li></ul>
RECOMMENDATION	REFUSAL

## 1.0 SITE DESCRIPTION/AREA CONTEXT

- 1.1 The application site is located on the northern corner of Hills Road and Hills Avenue, on the eastern side of Hills Road. The site presently accommodates a two storey residential dwelling, which is located in the north-east corner of the site.
- 1.2 The existing property is finished in white render to the ground floor and red tiles to the first floor under a hipped roof. To the east is a flat roof garage. The remainder of the site, to the south and west of the property, is amenity space, which is

largely screened from Hills Road by mature trees and a timber fence, which is approximately 1.8 m in height. There are three protected trees along the Hills Avenue boundary and one on the Hills Road boundary.

- 1.3 To the north of the site is Homerton Court, a 3 storey building which accommodates approximately 10 residential flats. This property is finished in red brick and has projecting bay window features on both the front and rear of the property. To the east, the application site is separated from the garden of 237 Hills Road by a narrow access path, which provides access to the rear of Homerton Court. The garden of No.237 is again very mature and the presence of large trees close to the boundary means that the application site is largely obscured from it.
- 1.4 On the southern corner of Hills Road and Hills Avenue is Alliance Court. This is a development of residential flats. The building line of the blocks of flats respects the established building line of Hills Avenue and provides car parking and garages to the rear of the site, away from the road frontage. To the west, on Hills Road, are large detached and semi-detached residential properties situated on spacious plots, with car parking to the front. Many of these properties have hedging and fences along their front boundaries, which screen them from Hills Road.
- 1.5 Hills Road is a busy arterial road, which carries vehicular traffic to Addenbrookes Hospital and south towards Haverhill and Linton. The surrounding area is predominantly residential with some educational institutions nearby. The site is not located in a Conservation Area, nor are there any listed buildings or Buildings of Local Interest in close proximity to the site.

## **2.0 THE PROPOSAL**

- 2.1 The application seeks planning permission for the demolition of the existing residential property and the construction of 3 houses (a pair of semis and a detached house), with associated car parking, cycle parking, waste storage and landscaping.
- 2.2 The buildings proposed are three storeys tall with shallow pitched roofs to the Hills Avenue frontage and steeped pitched roofs on the Homerton side. Each house would have 3/4 bedrooms. Bike and bin storage would be incorporated within

the ground floor footprint of each house. Parking for one car per dwelling is provided to the front of each house from Hills Avenue. Amenity space is provided mainly to the front of the easternmost units onto Hills Avenue. The westernmost unit would have a garden backing onto Hills Road.

2.3 The plans show the houses finished in a combination of red facing brick and buff render with a standing seam zinc roof to Hills Avenue and red plain clay peg tiles to Homerton Court. Each house would have a 1.5m balcony projecting towards Hills Avenue leading from a first floor living room area.

2.4 The application is accompanied by the following supporting information:

1. Design and Access Statement
2. Tree Constraint Plan
3. Tree Protection Plan
4. Arboricultural Method Statement
5. Daylight and sunlight Assessment
6. Planning Support Statement
7. Pre-Development Tree Survey
8. Illustrative Plans
9. Plans

2.5 During the course of the application, the scheme has been amended in an attempt to address a number of concerns raised by third parties and consultees. The proposal as revised is described in paragraphs 2.2 – 2.3. The revisions have been subject to further consultation.

2.6 The application is brought before South Area Committee at the request of Councillors Swanson and Dryden for the following reasons:

Cllr Swanson

- o The proposal is similar to the previously refused scheme. If the application is minded for approval then I would like to call it in to South Area Committee for consideration under policy 3/4 of the local plan.

Cllr Dryden:

- o The application raises issues of character, context and amenity which need to be discussed at Committee.

### 3.0 SITE HISTORY

Reference	Description	Outcome
11/0507/FUL	Demolition of existing 3 bedroom property, construction of 6no apartments with associated car parking, bin, cycle storage and landscaping.	Refused

3.1 The previously refused scheme sought a single block containing 6 apartments. It was, like the current proposal, of three storey form but with a mansard roof. The apartment scheme measured:

-13m north to south and 31.4 m east to west.

3.2 The scheme for town houses measures:

-11m north to south and 27.5m east to west.

3.3 The proposed dwellings do not appear to be significantly different in their scale or footprint to the refused scheme. 11/0507/FUL for 6 apartments was refused on 8 grounds, the first four and the last in my view remaining pertinent this proposal. The grounds were: character; sunlight and daylight; overbearing; amenity for future occupiers; trees; cycle parking; waste provision; and lack of S106

3.4 The decision notice for the previously refused application 11/0507/FUL is attached to this report as Appendix 1, together with a couple of plans for comparison purposes.

### 4.0 PUBLICITY

4.1 Advertisement:	No
Adjoining Owners:	Yes
Site Notice Displayed:	No



## 5.0 POLICY

5.1 See Appendix 1 for full details of Central Government Guidance, Cambridge Local Plan 2006 policies, Supplementary Planning Documents and Material Considerations.

5.2 Relevant Development Plan policies

PLAN		POLICY NUMBER
Cambridge Plan 2006	Local	3/1 3/4 3/7 3/8 3/10 3/11 3/12 4/4 5/1 5/14 8/1 8/2 8/6 8/10 10/1

5.3 Relevant Central Government Guidance, Supplementary Planning Documents and Material Considerations

Central Government Guidance	National Planning Policy Framework March 2012 Circular 11/95 Community Infrastructure Levy Regulations 2010
Supplementary Planning Documents	Sustainable Design and Construction Planning Obligation Strategy
Material Considerations	<u>Central Government:</u> Letter from Secretary of State for Communities and Local Government (27 May 2010) Written Ministerial Statement: Planning for Growth (23 March 2011) National Planning Practice Consultation

	<u>Citywide:</u> Open Space and Recreation Strategy Cambridgeshire Design Guide For Streets and Public Realm Cycle Parking Guide for New Residential Developments
	<u>Area Guidelines:</u> Suburbs and Approaches Study: Hills Road

#### 5.4 Status of Proposed Submission – Cambridge Local Plan

Planning applications should be determined in accordance with policies in the adopted Development Plan and advice set out in the NPPF. However, after consideration of adopted plans and the NPPF, policies in emerging plans can also be given some weight when determining applications. For Cambridge, therefore, the emerging revised Local Plan as published for consultation on 19 July 2013 can be taken into account, especially those policies where there are no or limited objections to it. However it is likely, in the vast majority of instances, that the adopted development plan and the NPPF will have considerably more weight than emerging policies in the revised Local Plan.

For the application considered in this report, the following policies in the emerging Local Plan are of relevance:

Policies: 50, 52, 55, 56, 57, 59, 65, 68, 71, 80, 82.

## 6.0 CONSULTATIONS

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

*Original Comment*

- 6.1 The proposal has two cars in tandem and therefore will cause problems if the inner car needs to access the highway. Being close to a main junction increased vehicle movements will increase the risk and obstruction of other users of the public highway. The highway authority recommends refusal.

*Comment on Amended Scheme*

- 6.2 The applicants have removed the tandem arrangement and there is no garage and only a single car parking space per dwelling. This overcomes the concerns of the highway authority. If the application is approved then conditions relating to driveway materials, gates, construction details, drainage, visibility splays and public utilities etc. in the highway are recommended.

**Head of Refuse and Environment**

- 6.3 The proposal is acceptable subject to conditions relating to construction hours and deliveries, piling, dust, noise insulation and waste.

**Urban Design and Conservation Team**

- 6.4 *Original Comment*

The Urban Design Team do not support the proposed application. The scale and proximity of the proposal results in the loss of daylight to habitable rooms within Homerton Court. The proposed three storey scale of the Hills Avenue frontage together with the unbalanced roof form and balconies are alien to the established character of Hills Avenue. As proposed the scheme fails to address the requirements of saved Cambridge Local Plan (2006) Policies 3/4 Responding to Context, 3/7 Creating successful places and 3/12 The Design of New Buildings.

*Comment on Amended Scheme*

**Scale and massing**

- 6.5 The overall height of the units has reduced slightly from 10.1m to 9.8m (measured to the top of the roof lights) but maintains the previous full three storey arrangement on the Hills Avenue

frontage. The asymmetric roof form with shallow pitched roofs on the south elevation (to Hills Avenue) and steep pitched roofs on the north elevation (backing onto the boundary with Homerton Court) have been retained creating an unbalanced roof form. We remain concerned that the three storey scale of the Hills Avenue frontage together with the roof form is alien to the established character of Hills Avenue.

### **Daylight and sunlight**

- 6.6 The revised scheme locates Plot 2 0.6m further forward from the shared boundary with Homerton Court. As a result all of the windows within the south elevation of Homerton Court now achieve an Average Daylight Factor (ADF) result of 85% or greater and pass the ADF test. The shadowing impacts are acceptable and meet the requirements of the BRE guidance.
- 6.7 The proposed shadowing impacts to rear amenity space are acceptable when measured against the BRE guidance.
- 6.8 The position and size of the rear and side amenity spaces means these areas will be in permanent shadow, this remains a concern as habitable rooms face these spaces.

### **Elevations and materials**

- 6.9 The revised scheme proposes a mixture of red facing brick and buff coloured render for the Hills Avenue and side elevations and cream render for the rear elevations of Plots 1 and 2. The rear elevation of Plot 3 is entirely red brick. Light red plain clay peg tile are proposed for the rear facing steep pitched roofs whilst the shallow roofs to Hills Avenue form zinc standing seam roofs. The former glazed balconies are now fully rendered. We support the revised approach to the proposed materials. We support the revised treatment of the 1<sup>st</sup> floor balconies. However the elevations are not acceptable given that the scale (3 storeys) is inappropriate to the established context on Hills Avenue.

### **Car parking, cycle and refuse storage**

- 6.10 The revised scheme removes the garages altogether and proposes a smaller internal 'storage' area for cycles and refuse bins. Whilst this approach now provides the necessary cycle

and refuse storage, the storage areas still have the appearance of garages (due to the width and treatment of the doors). The small size and close proximity of the car parking spaces at the front of the units will result in parked cars limiting access to the cycle and refuse store, cars will therefore need to be reversed off the drive in order to gain access to cycles and refuse bins.

- 6.11 The configuration of the boundary treatment to Hills Avenue (1.8m close bordered fence) and the 'garage' doors limits opportunities for surveillance of the street. An external cycle and refuse store should be provided within the front gardens in order to improve access. The storage areas should form habitable rooms and provide improved surveillance of the street.

### **Conclusion**

- 6.12 Whilst the revisions to the materials are acceptable, the Urban Design Team do not support the proposed application. The proposed three storey scale of the Hills Avenue frontage and unbalanced form is alien to the established character on Hills Avenue.
- 6.13 The proposed cycle and refuse stores are difficult to access and will result in cars needing to be reversed off the driveway. The 'garage' door treatment of the stores together with the 1.8m close bordered fence limit opportunities for surveillance of the street.
- 6.14 As proposed the scheme fails to address the requirements of Cambridge Local Plan (2006) Policies 3/4 Responding to Context, 3/7 Creating Successful Places and 3/12 The Design of New Buildings.

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### **Head of Streets and Open Spaces (Tree Team)**

#### *Original Comment*

- 6.15 Objection: The proposal will have a detrimental impact upon the existing trees and is therefore unacceptable.

#### *Comment on Amended Scheme*

- 6.16 No formal comments have been received. If comments are received I will report them on the amendment sheet or orally at the meeting.

**Cambridgeshire Constabulary (Architectural Liaison Officer)**

*Original Comment*

- 6.17 The alignment of the door is a concern as there will be no natural surveillance of the front door and could lead to criminal activity. The underground storage of the bins is not likely to be used.

*Comment on Amended Scheme*

- 6.18 The amended scheme addresses the concern raised about natural surveillance of the front door and by removing the internal garage and having this as a bins and cycle store is welcomed.

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.

**7.0 REPRESENTATIONS**

- 7.1 The owners/occupiers of the following addresses have made representations:

- 7 St Margrets Square
- Flat 3 Homerton Court
- Flat 5 Homerton Court
- Flat 7 Homerton Court
- Flat 9 Homerton Court
- 7 Alliance Court
- 15 Alliance Court
- 238 Hills Road

- 7.2 The representations can be summarised as follows:

- Does not respect the building line of Hills Avenue;
- Loss of light to the amenity area of Homerton Court due to the close proximity of the proposed building to Homerton Court;

- There will be significant overshadowing to Homerton Court
- External materials do not match the traditional character of the area
- Servicing the site will be difficult
- The design does not reflect the character of anything in the area
- The plot can accommodate only one dwelling due to the constraints
- Mobile phone reception

#### Additional Comments

- The proposal is not different to the previous application and drawings and the impact is still the same.

7.3 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.

## **8.0 ASSESSMENT**

8.1 From the consultation responses and representations received and from my inspection of the site and the surroundings, I consider that the main issues are:

1. Principle of development
2. Context of site, design and external spaces
3. Trees
4. Residential amenity
5. Refuse arrangements
6. Highway safety
7. Car and cycle parking
8. Third party representations
9. Planning Obligation Strategy

### **Principle of Development**

8.2 The provision of higher density housing in sustainable locations is generally supported by central government advice contained in National Planning Policy Framework. Policy 5/1 of the Cambridge Local Plan 2006 allows for residential development from windfall sites, subject to the existing land use and compatibility with adjoining uses, which is discussed in more detail in the amenity section below. The proposal is therefore in compliance with these policy objectives.

8.3 Local Plan policy 3/10 sets out the relevant criteria for assessing proposals involving the subdivision of existing plots. Such proposals will not be permitted where:

- a) there is a significant adverse impact on the amenities of neighbouring properties, through loss of privacy, loss of light, an overbearing sense of enclosure and the generation of unreasonable levels of traffic or noise nuisance;
- b) they provide inadequate amenity space, vehicular access arrangements and car parking spaces for the proposed and existing properties;
- c) where they detract from the prevailing character and appearance of the area;
- d) where they adversely affect the setting of Listed Buildings;
- e) where there is an adverse impact upon trees, wildlife or architectural features within or close to the site;
- f) where development prejudices the comprehensive development of the wider area, of which the site forms part.

8.4 The scheme represents a 'windfall' development and could not form part of a wider development in accordance with 3/10 (f), nor are there any listed buildings in close proximity to the site in accordance with 3/10 (e). The character and amenity sections of policy 3/10 are considered in the relevant subsections below.

8.5 There is no objection in broad principle to residential development, but the detailed elements of the proposal have to be assessed against the criteria of policies 3/4, 3/10 and 3/12 of Cambridge Local Plan 2006.

### **Context of site, design and external spaces**

#### *Hills Avenue*

8.6 Hills Avenue is the main frontage to the site. The existing house is accessed from Hills Avenue and so are the proposed houses. This is the public face of the site and, in my view, the scale, density and layout of the site should reflect the character and



context of properties along Hills Avenue. I would define the character and context of Hills Avenue as a leafy low density suburb of Cambridge with substantial detached houses set in large, well landscaped gardens, set back from the road. Properties are mainly of two storey form with rooms in the roof and with traditional hipped or gable ended roofs.

- 8.7 The proposed development would contrast significantly with this character. The width of footprint occupied by the three dwellings would be significant and this would be compounded by the depth of the dwellings coming very close to Hills Avenue, the three storey height and the unusual asymmetrical roof form which is very shallow on the Hills Avenue side. The combined footprint of the dwellings have resulted in a limited depth to the private gardens which for two of the properties front onto Hills Avenue, with three car parking spaces set immediately off the pavement. The car parking adds to the clutter and visual impact on the street where the general characteristic is for soft open front areas, where car parking is set away from the public realm. As such, the scheme is far removed from the informal, leafy nature of the existing site or that of comparable dwellings along Hills Avenue. It would appear as a very dominant built form compressed onto the site, cluttered with cars and fencing with an alien private garden arrangement abutting the road. This would all result in a very obtrusive built form out of character and context with its surroundings.
- 8.8 I give little weight to the fact that this scheme has a slight gap between the proposed pair of semis and the detached house. This is narrow at 1.4m and would not be appreciable from oblique views up and down the street.
- 8.9 I appreciate that the apartment blocks of Homerton Court and Alliance Court, to the north and south respectively, are larger than the proposed development, but they are set back from the street by approximately 15 m and on much larger plots, which allows those sites to carry the scale of the respective buildings much more comfortably and allows them to be readily absorbed into the street scene.

*Hills Road*

8.10 I am also concerned regarding the extent to which the building projects forward, west towards Hills Road. It would align itself with the front building line of Homerton Court which itself staggers round the corner. Whilst the impact onto Hills Avenue is a key issue, I am concerned that the three storey footprint would be too intrusive onto Hills Road and that too little regard has been given to adequately turning the corner, especially given the height of the asymmetrical roof and its steep pitch that would be appreciable from Hills Road. I recognise that the mature tree planting to be maintained on the Hills Road frontage/corner, will provide screening when looking directly at the site from across Hills Road, but there are still views when travelling south and to a lesser extent north on Hills Road. In my opinion, any development of the site needs to respect the staggered character and form of development across this corner, not unlike the existing house. The extent of the three storey projection westwards also has implications for residential amenity which I deal with later in this report.

#### *Precedent*

8.11 The applicant has provided examples of other development sites in the locality which they think are comparable and justify their proposal. In my view, some of these developments are successful and some are not. Some of these sites have been granted in a different policy context and some of the sites are not comparable at all. It is noticeable in this part of Cambridge suburbia that the character of roads running perpendicular to Hills Road changes from low density to high density the further into Cambridge one travels. As members will be aware, officer advice is that each application should be treated on its own merits and I see no difference with this proposal to any other.

#### *Summary*

The proposal is contrary to Cambridge Local Plan 2006 policies 3/4, 3/7, 3/10 and 3/12.

#### **Trees**

8.12 A tree survey has been undertaken and submitted with the application. The Arboricultural Officer considers that there could be pressure to remove the remaining trees which are retained, as the retained trees will shade the usable amenity

space of the westernmost house and are a feature of Hills Road. The tree officer objects to the proposed layout but considers that the development of the plot would be acceptable with greater consideration of the tree constraints.

- 8.13 I do not consider that these concerns are insurmountable. Adequate protection could be given to the trees through the imposition of appropriate planning conditions, either requiring retention, thinning or new planting to accord with policy 4/4 of the Cambridge Local Plan.

## **Residential Amenity**

### Impact on amenity of neighbouring occupiers

#### *Daylight and Overshadowing*

- 8.14 Homerton Court has secondary windows in the south elevation facing the site and a primary bay window on the western side. The secondary windows serve deep plan living rooms and kitchens and are positioned on this elevation to receive light and provide limited additional outlook. Care needs to be taken regarding the scale and massing of the proposal close to these windows. The revised scheme has tried to reduce the impact on the south facing windows by providing a distance to the boundary of between 1.5m to 2.5m but this is of limited value, given that the proposal is longer and higher than the existing building and it is due south of Homerton Court.
- 8.15 Due to concerns regarding light, the applicants have submitted a daylight and sun light study which has been revised following a re-siting of the scheme. This shows that the light impact meets the requirements of the BRE Site Layout Planning for Daylight and Sunlight: A guide to good practice (2011). The Council's Urban Design Officer has reviewed the assessment and concluded that the impact is acceptable. This is mainly due to the orientation of the affected rooms in Homerton Court being east-west and the principal windows being in these elevations.

#### *Enclosure*

- 8.16 I am concerned that the relationship of the proposed development to Homerton Court would be very poor, particularly the ground floor unit adjacent to the site. When on site I noted

that the existing building sits relatively comfortably on the plot when viewed from the rear and front garden spaces and from the downstairs side passage and ground floor kitchen/dining room.

- 8.17 This relatively comfortable relationship of built form would be drastically altered if the application were allowed. The combined footprint of the new units and their scale, compounded by the steep and long pitched roofs would have a dominating impact from views south from the north and south garden areas and from the ground floor kitchen/dining room window in Homerton Court. To my mind, the relationship of built form represents a failure to properly take into account the amenity of neighbouring properties as a constraint. In my opinion, the sheer scale and massing of the houses so close to the boundary would be visually dominating. Whilst I appreciate views east-west would remain, the existing property affords a degree of spaciousness and amenity to the south which the proposed scheme does not.
- 8.18 I am of the view that given the orientation of the proposed development to Homerton Court, its position close to the common boundary and its overall scale and massing, that it would adversely affect the neighbouring properties and it would appear dominant and overbearing and that the proposal therefore conflicts with policies 3/4, 3/7, 3/10a and 3/12 of the Cambridge Local Plan.

#### *Overlooking*

- 8.19 There are first floor bathroom windows and second floor roof light windows serving en-suites in the north elevation of each house. These could be controlled by condition to be obscure glazed and any opening to be 1.7m above floor level. I consider that this would alleviate any harm from overlooking from these windows.

#### Amenity for future occupiers of the site

- 8.20 There is amenity space around each dwelling. The easternmost two dwellings would have front garden depths of 7.5m and 6.5m, whilst the westernmost dwelling would have a private garden of similar dimensions to its footprint. For four bedroom family houses, the main garden depths for the two easternmost houses are very small and the amenity spaces are exposed to

the road and would not feel, to the user, particularly secure. However, the Council does not have minimum external space standards for private gardens, so I am not minded to refuse the application on this basis.

8.21 However, such is the tightness of the site that the amenity of the future occupants of the central house would, in my view, but unduly compromised. Unlike either of the houses to the east and west, the central house has its kitchen area and side patio sited immediately adjacent to the three storey form of Homerton Court and side gable of the detached house (only 5m from the 3 storey form of Homerton). Outlook from the kitchen in particular, which would be a well-used space, would be dominated by Homerton Court and would be completely shaded. I appreciate that the ground floor plan of these units is open and that the living rooms would be on the first floor with a balcony facing south, but this doesn't dissuade me from concluding that, in the round, the level of amenity for future occupiers of this property would be unduly compromised by Homerton Court. This would be compounded by the limited and exposed private garden to the road. This would not be a high quality living environment for future occupiers.

8.22 In my opinion the proposal does not provide an appropriate standard of residential amenity for future occupiers, and I consider that in this respect it is not compliant with Cambridge Local Plan (2006) policies 3/7, 3/10 and 3/12.

### **Refuse Arrangements**

8.23 The revised scheme now incorporates bins and bike storage within the former garage area and this is acceptable.

8.24 In my opinion the proposal is compliant with Cambridge Local Plan (2006) policy 3/12

### **Highway Safety**

8.25 The proposal has been amended to remove the tandem parking arrangement. The revision has satisfied the concerns of the local highway authority and the proposal is now considered acceptable in highway safety terms.

- 8.26 In my opinion the proposal is compliant with Cambridge Local Plan (2006) policy 8/2.

### **Car and Cycle Parking**

#### Car Parking

- 8.27 Each property is to have its own dedicated parking. There will be a loss of on-street parking as a result of the cross-overs but this is off set with the dedicated parking on site.

#### Cycle Parking

There is ample cycle parking with the previous garage areas for each property. There is ample room to accommodate bikes and this is acceptable.

- 8.28 In my opinion the proposal is compliant with Cambridge Local Plan (2006) policies 8/6 and 8/10.

### **Third Party Representations**

- 8.29 The third party comments have been addressed in the report above. The issue regarding the mobile phone reception is not a matter which could be reasonably used to refuse this application.

### **Planning Obligations**

- 8.30 The Community Infrastructure Levy Regulations 2010 have introduced the requirement for all local authorities to make an assessment of any planning obligation in relation to three tests. If the planning obligation does not pass the tests then it is unlawful. The tests are that the planning obligation must be:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

In bringing forward my recommendations in relation to the Planning Obligation for this development I have considered these requirements

The Planning Obligation Strategy (2010) provides a framework for expenditure of financial contributions collected through planning obligations. Cambridgeshire and Peterborough Waste Partnership (RECAP) : Waste Management Design Guide provides advice on the requirements for internal and external waste storage, collection and recycling in new residential and commercial developments. The applicants have indicated their willingness to enter into a S106 planning obligation in accordance with the requirements of the Strategy and relevant Supplementary Planning Documents. The proposed development triggers the requirement for the following community infrastructure:

### Open Space

- 8.31 The Planning Obligation Strategy requires that all new residential developments contribute to the provision or improvement of public open space, either through provision on site as part of the development or through a financial contribution for use across the city. The proposed development requires a contribution to be made towards open space, comprising outdoor sports facilities, indoor sports facilities, informal open space and provision for children and teenagers. The total contribution sought has been calculated as follows.
- 8.32 The application proposes the erection of 3 three-bedroom houses, so the net total of additional residential units is 2. A house or flat is assumed to accommodate one person for each bedroom, but one-bedroom flats are assumed to accommodate 1.5 people. Contributions towards provision for children and teenagers are not required from one-bedroom units. The totals required for the new buildings are calculated as follows:

<b>Outdoor sports facilities</b>					
Type of unit	Persons per unit	£ per person	£per unit	Number of such units	Total £
studio	1	238	238		
1 bed	1.5	238	357		

2-bed	2	238	476		
3-bed	3	238	714	2	1428
4-bed	4	238	952		
<b>Total</b>					<b>1428</b>

<b>Indoor sports facilities</b>					
Type of unit	Persons per unit	£ per person	£per unit	Number of such units	Total £
studio	1	269	269		
1 bed	1.5	269	403.50		
2-bed	2	269	538		
3-bed	3	269	807	2	1614
4-bed	4	269	1076		
<b>Total</b>					<b>1614</b>

<b>Informal open space</b>					
Type of unit	Persons per unit	£ per person	£per unit	Number of such units	Total £
studio	1	242	242		
1 bed	1.5	242	363		
2-bed	2	242	484		
3-bed	3	242	726	2	1452
4-bed	4	242	968		
<b>Total</b>					<b>1452</b>

<b>Provision for children and teenagers</b>					
Type of unit	Persons per unit	£ per person	£per unit	Number of such units	Total £
studio	1	0	0		0
1 bed	1.5	0	0		0
2-bed	2	316	632		
3-bed	3	316	948	2	1896
4-bed	4	316	1264		
<b>Total</b>					<b>1896</b>



8.33 In the absence of a S106 planning obligation to secure the requirements of the Planning Obligation Strategy (2010) and in accordance with the Cambridge City Council Open Space Standards Guidance for Interpretation and Implementation (2010), the proposal is in conflict with Cambridge Local Plan (2006) policies 3/8 and 10/1 and the Planning Obligation Strategy 2010 and the Cambridge City Council Open Space Standards Guidance for Interpretation and Implementation (2010).

#### Community Development

8.34 The Planning Obligation Strategy (2010) requires that all new residential developments contribute to community development facilities, programmes and projects. This contribution is £1256 for each unit of one or two bedrooms and £1882 for each larger unit. The total contribution sought has been calculated as follows:

<b>Community facilities</b>			
Type of unit	£per unit	Number of such units	Total £
1 bed	1256		
2-bed	1256		
3-bed	1882	2	3764
4-bed	1882		
<b>Total</b>			<b>3764</b>

8.35 In the absence of a S106 planning obligation to secure the requirements of the Planning Obligation Strategy (2010), the proposal is in conflict with Cambridge Local Plan (2006) policies 5/14 and 10/1 and the Planning Obligation Strategy 2010.

#### Waste

8.36 The Planning Obligation Strategy (2010) requires that all new residential developments contribute to the provision of household waste and recycling receptacles on a per dwelling basis. As the type of waste and recycling containers provided by the City Council for houses are different from those for flats, this contribution is £75 for each house and £150 for each flat. The total contribution sought has been calculated as follows:

<b>Waste and recycling containers</b>			
Type of unit	£per unit	Number of such units	Total £
House	75	2	150
Flat	150		
<b>Total</b>			<b>150</b>

8.37 In the absence of a S106 planning obligation to secure the requirements of the Planning Obligation Strategy (2010), the proposal is in conflict with Cambridge Local Plan (2006) policies 3/7, 3/12 and 10/1 and the Planning Obligation Strategy 2010.

#### Monitoring

8.38 The Planning Obligation Strategy (2010) requires that all new residential developments contribute to the costs of monitoring the implementation of planning obligations. The costs are calculated according to the heads of terms in the agreement. The contribution sought will be calculated as £150 per financial head of term and £300 per non-financial head of term. Contributions are therefore required on that basis.

#### Planning Obligations Conclusion

8.39 It is my view that the planning obligation is necessary, directly related to the development and fairly and reasonably in scale and kind to the development and therefore the Planning Obligation passes the tests set by the Community Infrastructure Levy Regulations 2010.

## **9.0 CONCLUSION**

9.1 The proposal would not adequately respond to the character and appearance of the area. It would unduly enclose and dominate the ground floor neighbouring property in Homerton Court. It would fail to provide a high quality living environment for future occupiers. It would not secure the necessary planning obligations to ensure compliance with the Councils SPD.

## 10.0 RECOMMENDATION

### **REFUSE for the following reason/s:**

1. By virtue of their footprint relative to the area of the site, the combined height and depth of the houses and the consequent relationship to both Hills Road and Hills Avenue, the dwellings would be an intrusive and overly dominant residential form, out of character with, and detrimental to, the relatively spacious residential surroundings representing an over-development of the site. This is a tightly constrained site and has inadequate space for buildings of this footprint and height to sit comfortably. In addition, the introduction of car parking and enclosed private amenity space to the front, would add to the visual clutter to the street and appear out of character. The building line does not respect the more generous setback of buildings along Hills Avenue and the three storey development brings the development too close to Hills Road, allowing the asymmetrical roof form to appear uncomfortably juxtaposed against Homerton Court. As a consequence, the proposal is inappropriate for its context and fails to take opportunities available for improving the character and quality of the area, and would be contrary to policies 3/4, 3/7, 3/10 and 3/12 of the Cambridge Local Plan (2006) and government guidance in the National Planning Policy Framework 2012.
2. The scale and position of the proposed development, close to the common boundary with Homerton Court would have an overbearing impact upon the occupants of the flats on that side of Homerton Court, particularly the ground floor flat and would detract from the enjoyment that neighbouring residents should expect to enjoy from their properties. In so doing, the development fails to respond positively to the site context and its constraints. The development is contrary to policies 3/4, 3/10 and 3/12 of the Cambridge Local Plan 2006 and advice in National Planning Policy Framework 2012.

3. The residential amenity of the future occupants of the central house would be unduly compromised. The central house has its kitchen area and side patio sited immediately adjacent to the three storey form of Homerton Court and side gable of the detached house. Outlook from the kitchen in particular, which would be a well-used space, would be dominated by Homerton Court and would be completely shaded. This would be compounded by the limited and exposed private garden to the road. This would not be a high quality living environment for future occupiers. The proposal does not provide an appropriate standard of residential amenity for future occupiers, and is contrary to Cambridge Local Plan (2006) policies 3/7, 3/10 and 3/12.
  
4. The proposed development does not make appropriate provision for public open space, community development facilities in accordance with the following policies, 3/7, 3/8, 3/12, 4/2, 5/14, 6/2, 8/3, 8/5 and 10/1 of the Cambridge Local Plan 2006; and as detailed in the Planning Obligation Strategy 2010 and Guidance for Interpretation and Implementation of Open Space Standards 2011.

**In the event that the application is refused, and an Appeal is lodged against the decision to refuse this application, delegated authority is sought to allow officers to negotiate and complete the Planning Obligation required in connection with this development**



CAMBRIDGE CITY COUNCIL

The Guildhall, Cambridge, CB2 3QJ

TOWN AND COUNTRY PLANNING ACT 1990

REFUSAL OF PLANNING PERMISSION

Ref: 11/0507/FUL

---

Mr Gary Johns  
Gary Johns Architects  
44 Silver Street  
Ely  
Cambs  
CB6 3WY

---

The Council hereby refuse permission for

**Demolition of existing 3 bedroom property, construction of 6no apartments with associated car parking, bin, cycle storage and landscaping.**

at

**241 Hills Road Cambridge Cambridgeshire CB2 8RW**

in accordance with your application received 25th May 2011 and the plans, drawings and documents which form part of the application, for the following reasons:

1. By virtue of its footprint relative to the area of the site, the combined height and depth of its design and the consequent relationship to both Hills Road and Hills Avenue, the latter of which it seeks to address as a main frontage, the building would be an intrusive and overly dominant residential form, out of character with, and detrimental to, the relatively spacious residential surroundings and an over-development of the site itself, which is tightly constrained and has inadequate space along its boundaries for a building of this size to sit comfortably. The building line does not respect the more generous setback of buildings along Hills Avenue and the one and a half storey-projecting wing brings the development closer to Hills Road than the established building line along this frontage. As a consequence, the proposal constitutes poor design, inappropriate for the context and failing to take the opportunities available for improving the character and quality of the area, and would be contrary to policy ENV7 of the East of England Plan 2008 and policies 3/4, 3/7, 3/10 and 3/12 of the Cambridge Local Plan (2006) and to government guidance in Planning Policy Statement 1 'Delivering Sustainable Development' (2005) and Planning Policy Statement 3 'Housing' (2010).



2. Due to the orientation of the proposed development to Homerton Court and because of its scale and proximity and the lack of evidence to demonstrate otherwise, there will be a loss of sunlight and daylight to the habitable rooms of the properties located on the east, west and south elevations of Homerton Court and to the shared amenity space along the common boundary. For this reason, the development would have a significant detrimental impact on the level of amenity that the occupiers of this property could reasonably expect to enjoy. In so doing, the development also fails to respond positively to the site context and its constraints. The development is contrary to policy ENV7 of the East of England Plan 2008, policies 3/4 and 3/10 of the Cambridge Local Plan 2006 and advice in Planning Policy Statement 1: Delivering Sustainable Development (2005).
3. The scale and position of the proposed development, close to the common boundary with Homerton Court, would have an overbearing impact upon the occupants of the flats on that side of Homerton Court. This overbearing impact will create an oppressive building, which will detract from the enjoyment that neighbouring residents should expect from their properties. In so doing, the development also fails to respond positively to the site context and its constraints. The development is contrary to policy ENV7 of the East of England Plan 2008, policies 3/4 and 3/10 of the Cambridge Local Plan 2006 and advice in Planning Policy Statement 1: Delivering Sustainable Development (2005).
4. The application proposes a courtyard to plot 2 on the north elevation, which will be in shadow the whole year, as well as overlooked by first and second floor apartments. As this is the only private amenity space provided for this apartment, the development will not provide an attractive, high-quality and stimulating living environment for future occupiers, contrary to policy ENV7 of the East of England Plan 2008 policies 3/7 and 3/10(b) of the Cambridge Local Plan (2006), and Government guidance in Planning Policy Statement 1 (2005).
5. The proposed development provides insufficient justification for the removal of a Category B tree and seeks to site the proposed building in a location, which will create an uncomfortable relationship with mature protected trees that are of such quality that they make a significant contribution to the amenity of the area. The impact of this siting and relationship would require frequent lopping or management of the trees, which would be to their detriment, and would also be likely to lead to requests for future reduction in tree cover more generally to improve the amenity of the prospective occupiers. Such erosion of the tree cover would, in turn, be likely to be detrimental to the setting of the area. The failure to adequately safeguard the future of these trees of high amenity value is contrary to East of England Plan 2008 policy ENV7 and Cambridge Local Plan policy 3/4, 3/10, 3/12, 4/4 and 4/10.
6. In the absence of information to demonstrate that sufficient provision for the storage of bicycles in accordance with the Cycle Parking Guide 2010 is provided, or can be adequately provide elsewhere on the site, the proposed development is contrary to policy T9 of the East of England Plan and 2008 Cambridge Local Plan 2006 policy 8/6.
7. In the absence of information to demonstrate that sufficient waste storage space can be provided in accordance with standards on site for the proposed residential use the development fails to make adequate provision for the storage of waste. The development is contrary to policies ENV7 and WM6 of the East of England Plan 2008 and policy 3/14 of the Cambridge Local Plan 2006.

8. The proposed development does not make appropriate provision for public open space, community development facilities and life-long learning in accordance with the following policies, 3/7, 3/8, 3/12, 4/2, 5/14, 6/2, 8/3, 8/5 and 10/1 of the Cambridge Local Plan 2006; and policies P6/1 and P9/8 of the Cambridgeshire and Peterborough Structure Plan 2003; and as detailed in the Planning Obligation Strategy 2010 and Guidance for Interpretation and Implementation of Open Space Standards 2011.

This decision notice relates to the following drawings: 09-39 P 05, 09-39 P 10, 09-39 P 11B, 09-39 P 12A, 09-39 P 13A, 09-39 P 14, 09-39 P 20A, 09-39 P 21A, 09-39 P 22, 09-39 P 30, 09-39 P 32, SOFT LANDSCAPES WORKS PLAN, 09-39 P 35, TREE PROTECTION PLAN, TREE CONSTRAINTS PLAN

A copy of the refused plan(s) is/are kept in the planning application file.

For further information please go to [www.cambridge.gov.uk/planning](http://www.cambridge.gov.uk/planning) to view the 'Your Decision Notice' leaflet. If you require a hard copy please contact the Application Support Team on (01223) 457200.

Dated: 27 October 2011

Guildhall, Cambridge, CB2 3QJ



Head of Planning



SEE NOTES ATTACHED



## PLANNING PERMISSION

### 1. Appeals to the Secretary of State

If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development' or to grant permission subject to conditions, then you can appeal to the First Secretary of State under section 78 of the Town & Country Planning Act 1990.

If you want to appeal then you must do so within 6 months of the date of this notice or within 12 weeks of the date of the decision notice against a refusal of any householder planning application that was valid on or after 6<sup>th</sup> April 2009, using a form which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN or from [www.planningportal.gov.uk/pcs](http://www.planningportal.gov.uk/pcs)

The Secretary of State can allow for a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances, which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

In practice, he does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.

### 2. Purchase Notices

If either the local planning authority or the Secretary of State for the Environment refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been, or would be permitted. In these circumstances, the owner may serve a purchase notice on the council (District Council, London Borough Council or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town & Country Planning Act 1990.

## LISTED BUILDING CONSENT, CONSERVATION AREA CONSENT

### 3. Notification of Demolition

If listed building consent has been granted and any demolition is to take place, you must in accordance with Section 8(2)(b) of the Planning (Listed Building and Conservation Areas) Act 1990 complete a Final Notice of Demolition Form and send it to English Heritage at least one month before demolition occurs.

### 4. Appeals to the Secretary of State

If you are aggrieved by the decision of your local planning authority to refuse listed building or conservation area consent, or to grant either subject to conditions then you may appeal to the Secretary of State for the Environment in accordance with sections 20 and 21 of the Planning (Listed Building and Conservation Areas) Act 1990. Appeals must be made within 6 months of the date of the decision (see notes under 1 above).

### 5. Purchase Notice

If listed building or conservation area consent is refused, or if either is granted subject to conditions, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the District Council in which the land is situated a purchase notice requiring the council to purchase his interest in the land in accordance with section 32 of the Planning (Listed Building and Conservation Areas) Act 1990.

### 6. Compensation

In certain circumstances a claim may be made against the local planning authority for compensation as provided for under Section 27 of the Planning (Listed Building and Conservation Areas) Act 1990.

## CONSENT TO DISPLAY AN ADVERTISEMENT

Simon Payne, Director of Environment  
Cambridge City Council, PO Box 700, Cambridge, CB1 0JH  
Telephone 01223 457200



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Garages converted  
to bin & cycle storage,  
Utility room and kitchen  
made larger.

Rev	By / Date	Amendment	Chkd
C	16.12.2013	SH	

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# Gary Johns Architects

CLIENT  
Czes Sobanda

PROJECT  
Hills Avenue  
Cambridge

TITLE  
Contextual Site Plan

SCALE @ A3	STATUS	
1:500	Planning	
DRAWN	CHECKED	DATE

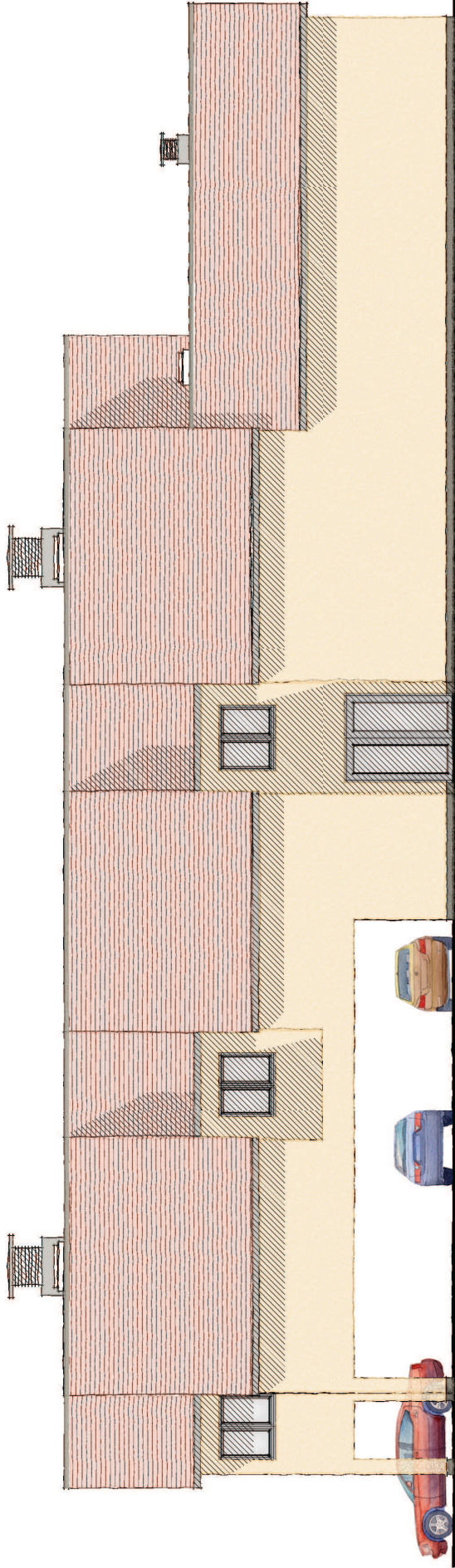
DRAWING NUMBER	REVISION
09-39	P177
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Contextual Site Plan  
1:500


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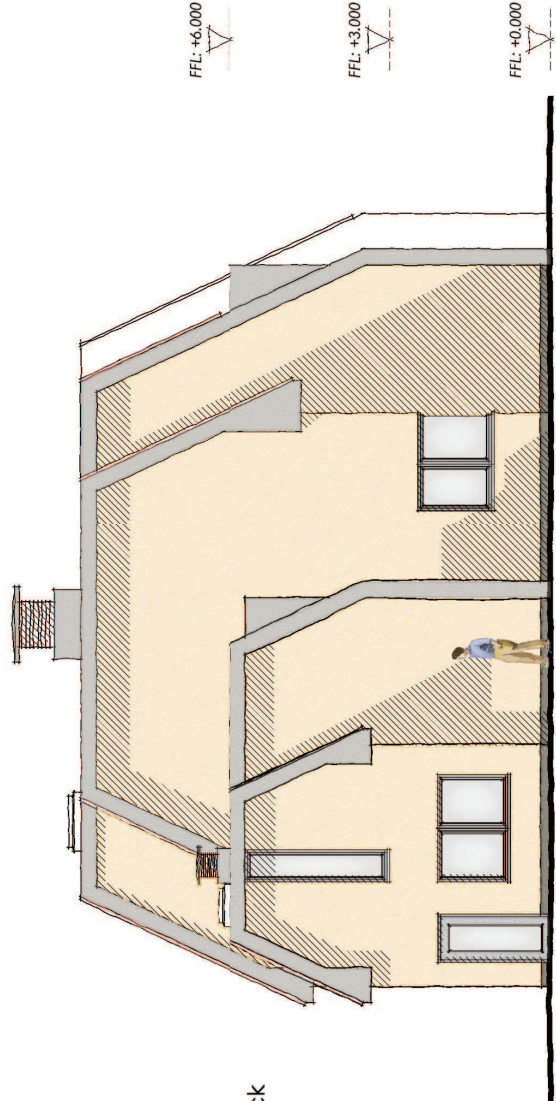


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North Elevation  
(Scale - 1:100)

-  Clay Plain Tiles
-  Render System with Black Engineering Brick
-  Standing Seam Zinc Cladding



West Elevation  
(Scale - 1:100)

Rev	By / Date	Amendment	Chk / Date

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E-MAIL : gary@johnsarchitects.co.uk  
WEB : www.johnsarchitects.co.uk

CLIENT  
Mr. Czes Sabamda

PROJECT  
Proposed Residential Development  
Land at junction of Hills Road & Hills Avenue  
241 Hills Road, Cambridge, CB2 8RW

TITLE  
Proposed North & West Elevations

SCALE WKS	STATUS
1:100	PLANNING

NAME	SIGNATURE	DATE
DAWN JJP		27-04-2011
CHECKED G.J		27-04-2011

DRAWING NUMBER  
09-39

REVISION  
P 31

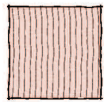


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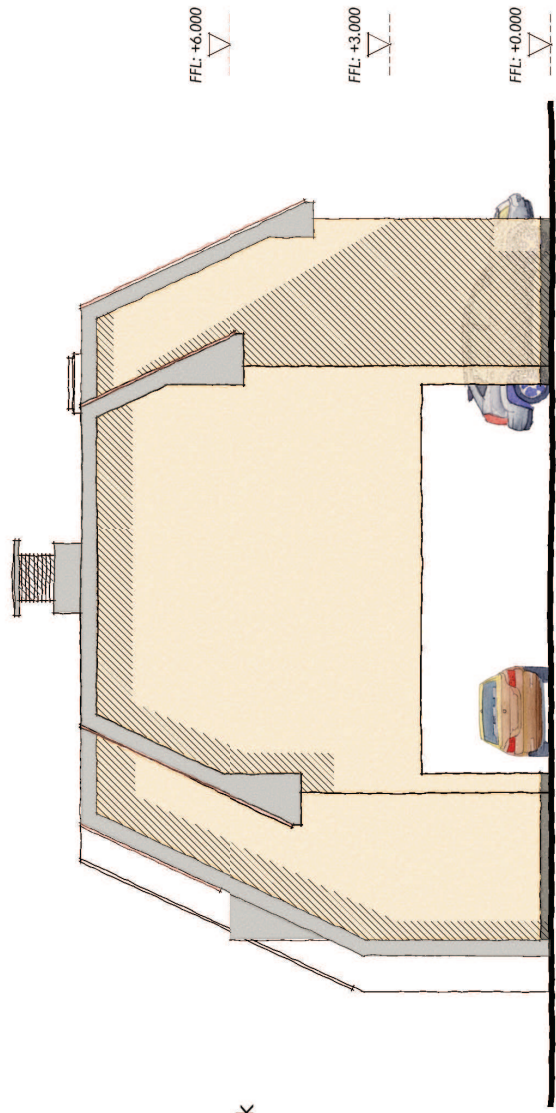


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Page 001  
 South Elevation  
 (Scale - 1:100)

-  Clay Plain Tiles
-  Render System with Black Engineering Brick (grey render to main entrance alcove)
-  Standing Seam Zinc Cladding



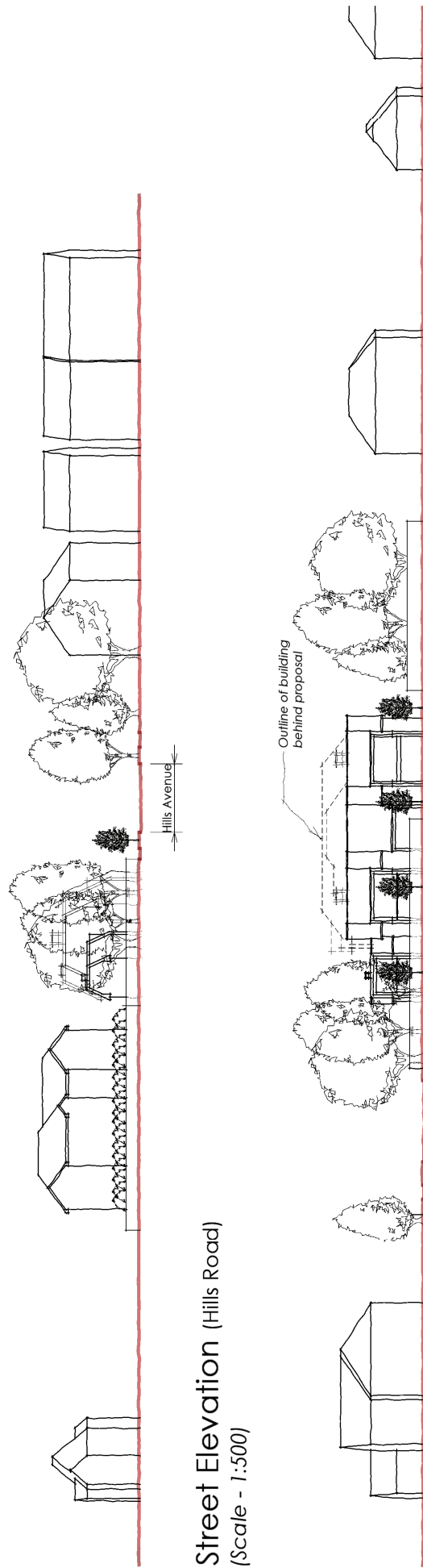
East Elevation  
 (Scale - 1:100)

Rev	By / Date	Amendment	Chk / Date
44 SILVER STREET, ELY, CAMBRIDGESHIRE, CB7 4JF TEL : +44(0)1353 666975 E-MAIL : gary@johnsarchitects.co.uk WEB : www.johnsarchitects.co.uk			
CLIENT		Mr. Czes Sabamda	
PROJECT		Proposed Residential Development Land at junction of Hills Road & Hills Avenue 241 Hills Road, Cambridge, CB2 8RW	
TITLE		Proposed South & East Elevations	
SCALE WP/3	STATUS		
1:100	NAME	SIGNATURE	DATE
DRAWN	JJP		27-04-2011
CHECKED	G.J		27-04-2011
DRAWING NUMBER		REVISION	
09-39		P	30

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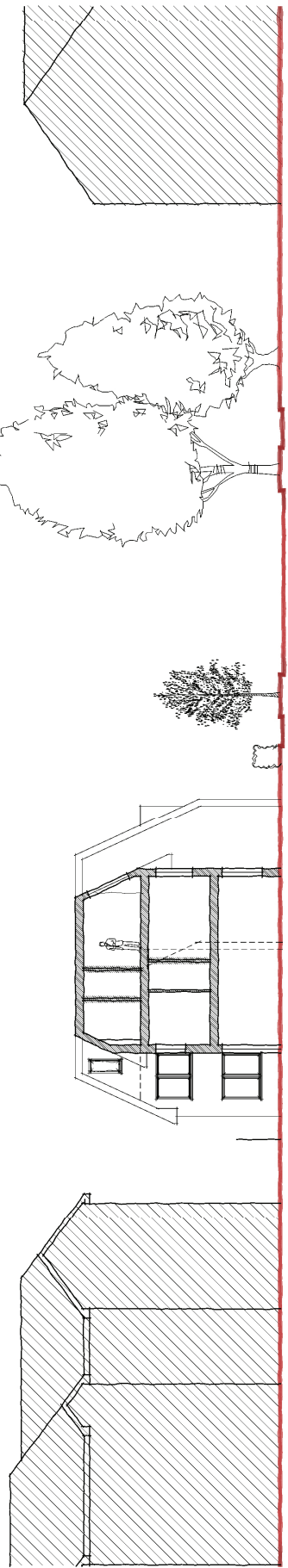
Street Elevation (Hills Road)  
 (Scale - 1:500)

Hills Road

Street Elevation (Hills Avenue)  
 (Scale - 1:500)

Outline of building  
 behind proposal

Hills Avenue



Street Section (Hills Avenue)  
 (Scale - 1:200)

NOTE: Approximate trees shown in  
 immediate location of proposal only  
 (remainder of both Hills Avenue and Hills  
 Road are heavily tree lined)

By: Gary Johns  
 Date: 03-05-11  
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**Gary Johns Architects**

CLIENT: Mr. Czes Sobanada

PROJECT: Proposed Residential Development  
 Land at junction of Hills Road & Hills Avenue  
 241 Hills Road, Cambridge, CB2 8RW

TITLE: Proposed Street Elevations

SCALE # AS	STATUS
1:100	PLANNING
NAME	SIGNATURE
DATE	
DRAWN: JJP	03-05-11
CHECKED: G-J	03-05-11
DRAWING NUMBER	09-39
	P
	32

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 ARCHITECTS  
 ALL DIMENSIONS TO BE CONFIRMED ON SITE  
 ANY INCONSISTENCIES TO BE REPORTED TO  
 ARCHITECT IMMEDIATELY

Materials:  
 Roof - light red plain clay peg tiles  
 Walls - red facing brick  
 buff render



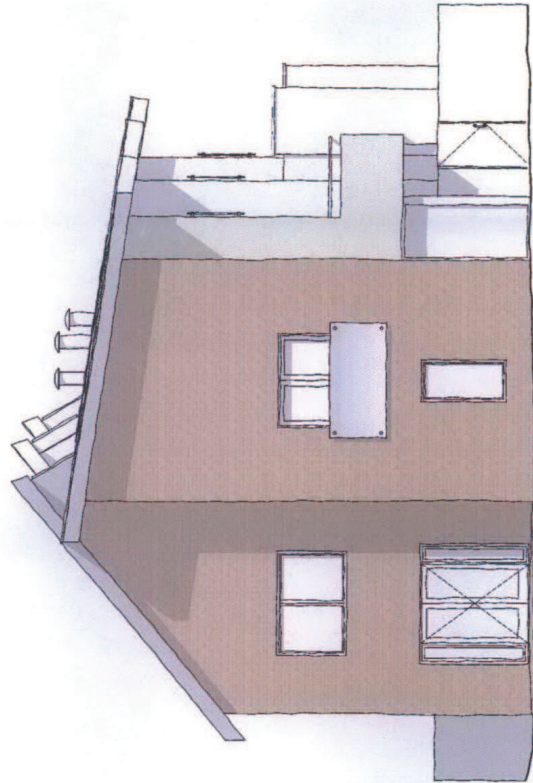
E-03

Rear Elevation

1:100

Rev	By / Date	Amendment	Checked
44 SILVER STREET, ELY, CAMBRIDGESHIRE, CB7 4JF TEL : +44(0) 1353 665374 E-MAIL : info@johnsarchitects.co.uk WEB : www.johnsarchitects.co.uk			
CLIENT	Czes Sobamda		
PROJECT	Hills Avenue Cambridge		
TITLE	Elevations		
SCALE @ A3	STATUS		
1:100			
DRAWN	CHECKED	DATE	
DRAWING NUMBER	REVISION		
09-39	P   81 Proposed Elevations 2		C

Gary Johns Architects



E-04

West Side Elevation

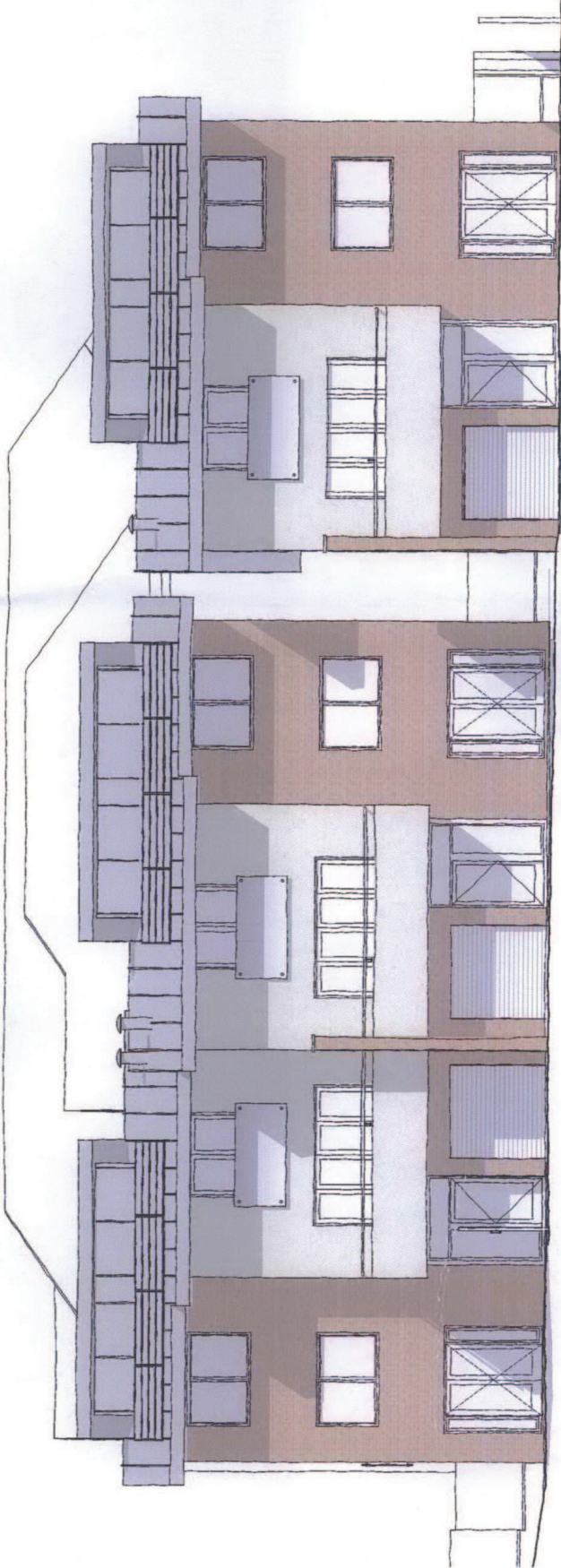
1:100

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ARCHITECT IMMEDIATELY

Materials:  
Roof - natural zinc with standing seam  
Walls - red facing brick  
buff render

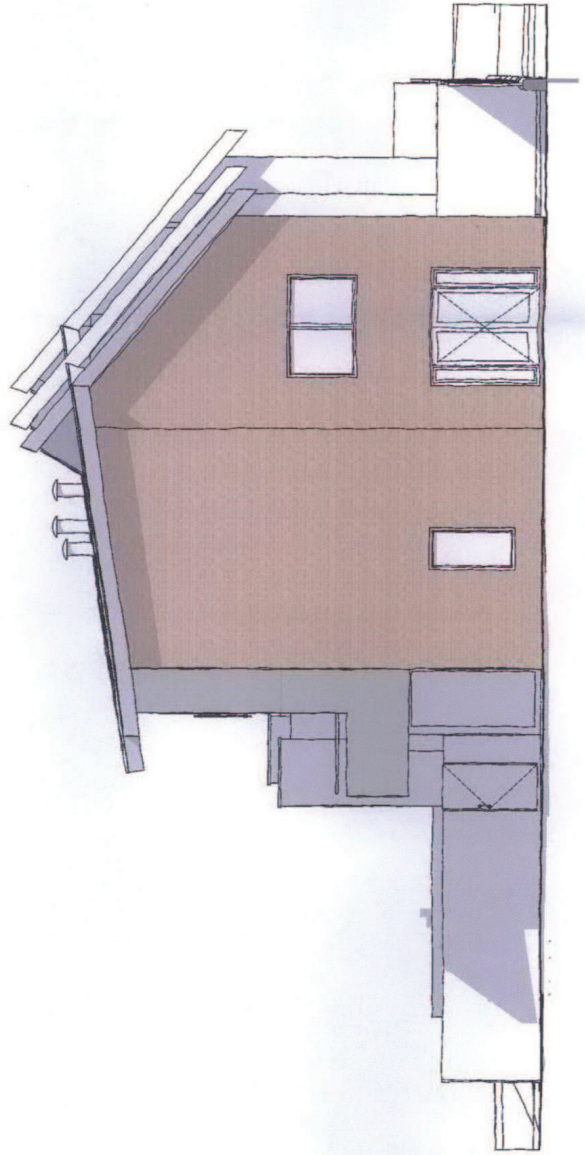


E-01

Front Elevation

1:100

Rev	By / Date	Amendment	Chkd
44 SILVER STREET, ELY, CAMBRIDGESHIRE, CB7 4JF TEL : +44(0)1353 663374 E-MAIL : info@garyjohnsarchitects.co.uk WEB : www.garyjohnsarchitects.co.uk			
CLIENT		Czes Sabanda	
PROJECT		Hills Avenue Cambridge	
TITLE		Elevations	
SCALE @ A3	STATUS		
1:100	Preliminary		
DRAWN	CHECKED	DATE	
SR	G-J	17.01.2012	
DRAWING NUMBER	REVISION		
09-39	P   80 Proposed Elevations 1		C



E-02

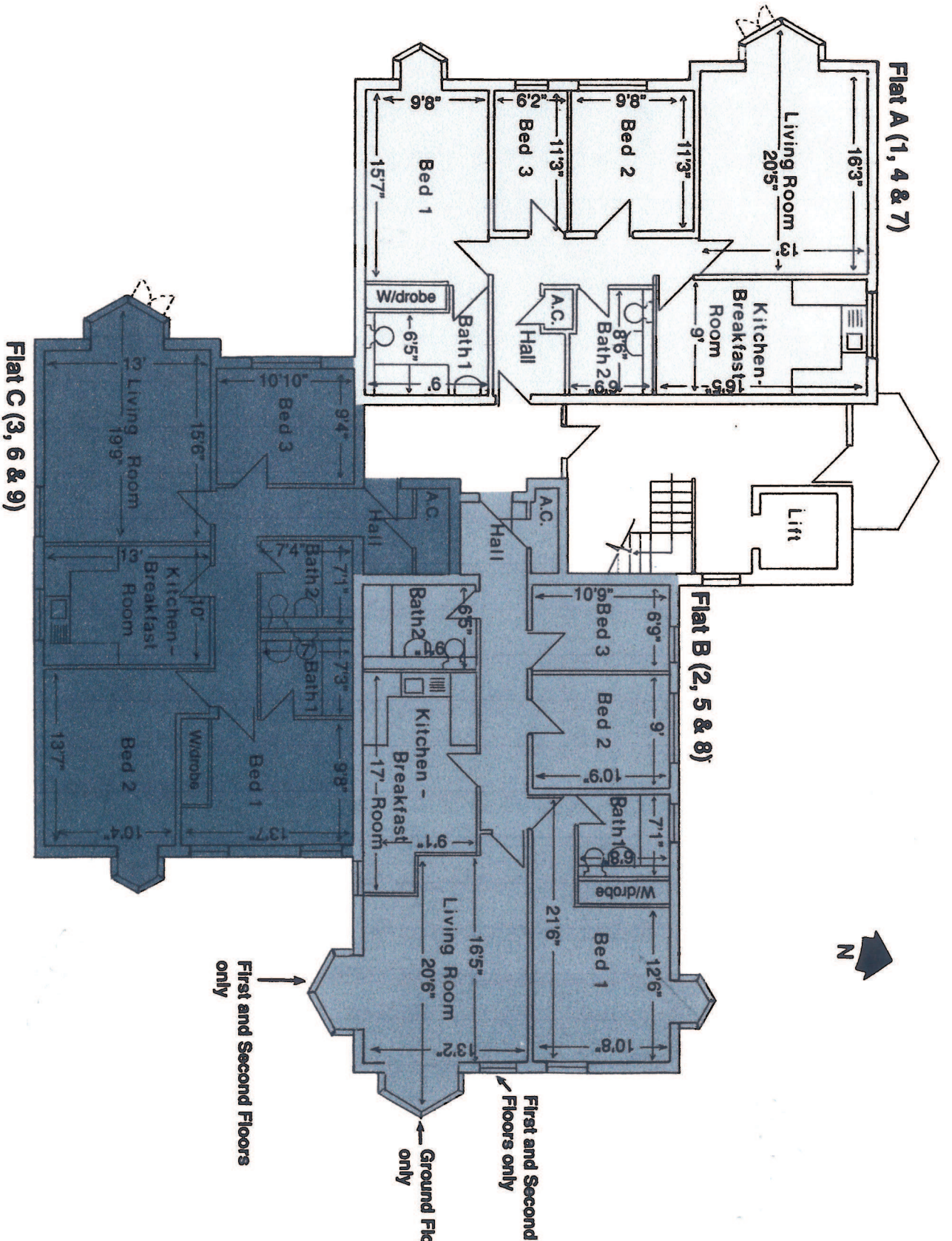
East Side Elevation

1:100

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FLOOR LAYOUT



Not to scale

A 9317

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<b>Application Number</b>	13/1739/FUL	<b>Agenda Item</b>	
<b>Date Received</b>	9th January 2014	<b>Officer</b>	Mr Amit Patel
<b>Target Date</b>	6th March 2014		
<b>Ward</b>	Trumpington		
<b>Site</b>	2 And 2A Bishops Road Cambridge Cambridgeshire CB2 9NH		
<b>Proposal</b>	Erection of 2 x 4 bedroom dwellings following demolition of existing dwelling at number 2 Bishops Road. Extension to existing dwelling at number 2A Bishops Road.		
<b>Applicant</b>	Ms T. Scutt And Mr R. Duff C/o Agent		

<b>SUMMARY</b>	<p>The development accords with the Development Plan for the following reasons:</p> <p>It would not be detrimental to the character and context of the area</p> <p>It would not detrimental to the residential amenity of neighbours</p> <p>Access as existing</p>
<b>RECOMMENDATION</b>	<b>APPROVAL</b>

## **1.0 SITE DESCRIPTION/AREA CONTEXT**

- 1.1 The site is located on the northern side of Bishops Road. The application site is to the rear of 4 to 20 Bishops Road with an access close to the junction of Shelford Road and Bishops Road.
  
- 1.2 The site has a two storey dwelling located close to Shelford Road and a three bed bungalow west of this dwelling with primary garden space north of the bungalow.

- 1.3 The area is residential in character with predominately two storey dwellings located on the eastern, southern and western boundaries. The northern boundary has a footpath running alongside it and the guided busway further north.
- 1.4 The site is not allocated in the Cambridge Local Plan (2006) and there are no listed buildings or Building of Local Interest close to or on site. The site is not in a controlled parking zone and there are trees on site but are not protected through a Tree Protection Order.

## **2.0 THE PROPOSAL**

- 2.1 The proposal is to demolish the current bungalow (2 Bishops Road) and re-develop the site for two four bed dwelling houses. The proposed dwellings will have a two storey form running north to east and single storey elements projecting east to west. There will be garden space for both of the units and the existing access will be used.
- 2.2 The main dwelling is also being extended with a two storey form to the side southwards.
- 2.3 The application is accompanied by the following supporting information:
  - 1. Planning Statement
  - 2. Arboriculture Assessment
  - 3. Sunlight/daylight Assessment
  - 4. Tree Survey
- 2.4 There have been amended plans submitted to address concerns from highways and the landscape team. Neither the size nor the position of the buildings have altered, except the garage dimensions increasing to accommodate the highways concerns and clarification from landscaping. As the main proposal is not changing there was no further consultation with third parties.

## **3.0 SITE HISTORY**

<b>Reference</b>	<b>Description</b>	<b>Outcome</b>
C/01/0214	Demolition of existing dwelling and erection of a replacement 2	A/C

storey dwelling. (This application was for 2a Bishops Road).

#### 4.0 PUBLICITY

4.1 Advertisement: No  
 Adjoining Owners: Yes  
 Site Notice Displayed: No

#### 5.0 POLICY

5.1 See Appendix 1 for full details of Central Government Guidance, Cambridge Local Plan 2006 policies, Supplementary Planning Documents and Material Considerations.

5.2 Relevant Development Plan policies

PLAN		POLICY NUMBER
Cambridge Plan 2006	Local	3/1 3/4 3/7 3/10 3/11 3/12 3/14 4/4 4/13 5/1 8/2 8/6 8/10

5.3 Relevant Central Government Guidance, Supplementary Planning Documents and Material Considerations

Central Government Guidance	National Planning Policy Framework March 2012 National Planning Policy Framework – Planning Practice Guidance March 2014 Circular 11/95
Supplementary Planning Guidance	Cambridgeshire and Peterborough Waste Partnership (RECAP): Waste Management Design Guide Supplementary Planning Document (February 2012) Planning Obligation Strategy (March 2010)

	<p><u>City Wide Guidance</u></p> <p>Cambridge City Council (2011) - Open Space and Recreation Strategy</p> <p>Cycle Parking Guide for New Residential Developments (2010)</p>

#### 5.4 Status of Proposed Submission – Cambridge Local Plan

Planning applications should be determined in accordance with policies in the adopted Development Plan and advice set out in the NPPF. However, after consideration of adopted plans and the NPPF, policies in emerging plans can also be given some weight when determining applications. For Cambridge, therefore, the emerging revised Local Plan as published for consultation on 19 July 2013 can be taken into account, especially those policies where there are no or limited objections to it. However it is likely, in the vast majority of instances, that the adopted development plan and the NPPF will have considerably more weight than emerging policies in the revised Local Plan.

For the application considered in this report, the following policies in the emerging Local Plan are of relevance:

Policy 1, 34, 36, 50, 52, 55, 56, 57, 58, 65, 71

## 6.0 CONSULTATIONS

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

- 6.1 The proposal is acceptable subject to conditions relating to driveway finish, no gates, construction specification, drainage, visibility splays, manoeuvring to be retained, width of access, no encroachment, works in highway and public utility.

### **Head of Refuse and Environment**

- 6.2 The bins will need to be pulled more than 100m, the kerb side for collection. The application is acceptable subject to the bins being left on the kerb side for collection and conditions relating

to construction hours, collections and deliveries, piling, dust, electric sub-station, contaminated land and dust informative.

### **Head of Streets and Open Spaces (Landscape Team)**

- 6.3 The proposal is acceptable subject to full details of hard and soft landscaping.

### **County Archaeology**

- 6.4 The site is potentially within a high level of archaeology and therefore recommend a condition to ensure an archaeological investigation.
- 6.5 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.

## **7.0 REPRESENTATIONS**

- 7.1 The owners/occupiers of the following addresses have made representations:

- 8 Bishops Road (x2)
- 10 Bishops Road
- 12 Bishops Road
- 14 Bishops Road
- 16 Bishops Road
- 20 Bishops Road

- 7.2 The representations can be summarised as follows:

- Access to the rear gardens of number 6 – 14 will remain.
- Sense of enclosure and overlooking.
- Loss of light in late afternoon and early evening.
- Highway hazard to Bishops Road to access the lane to the site.
- Removal of trees is a concern as they act as a noise and pollution barrier.
- Drainage for the new properties need to be satisfactory.
- Construction of new drains will have an impact on neighbours.
- Flooding to the garages needs to be mitigated.
- Responsible for the access road
- Raising of the new access road,
- Compound store use

- The new dwellings are out of character
- Light analysis does not reflect the impact for when people are likely to use their gardens
- Houses need to be properly constructed due to the history of the land
- Design is too harsh to the rear facing properties of Bishops Road and need additional windows to soften this

7.3 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.

## **8.0 ASSESSMENT**

8.1 From the consultation responses and representations received and from my inspection of the site and the surroundings, I consider that the main issues are:

1. Principle of development
2. Context of site, design and external spaces
3. Residential amenity
4. Refuse arrangements
5. Highway safety
6. Car and cycle parking
7. Surface water drainage
8. Archaeology
9. Third party representations
10. Planning Obligation Strategy

### **Principle of Development**

8.2 Policy 5/1 of the Cambridge Local Plan 2006 allows for residential development from windfall sites, subject to the existing land use and compatibility with adjoining uses, which is discussed in more detail in the amenity section below. The proposal is therefore in compliance with these policy objectives.

8.3 Local Plan policy 3/10 sets out the relevant criteria for assessing proposals involving the subdivision of existing plots. Such proposals will not be permitted where: a) there is a significant adverse impact on the amenities of neighbouring properties, through loss of privacy, loss of light, an overbearing sense of enclosure and the generation of unreasonable levels of traffic or noise nuisance; b) they provide inadequate amenity



space, vehicular access arrangements and car parking spaces for the proposed and existing properties; c) where they detract from the prevailing character and appearance of the area; d) where they adversely affect the setting of Listed Buildings; e) where there is an adverse impact upon trees, wildlife or architectural features within or close to the site; f) where development prejudices the comprehensive development of the wider area, of which the site forms part. The scheme represents a 'windfall' development and could not form part of a wider development in accordance with 3/10 (f), nor are there any listed buildings in close proximity to the site in accordance with 3/10 (d) or (e). The character and amenity sections of policy 3/10 are considered in the relevant subsections below.

- 8.4 There is no objection in broad principle to residential development, but the proposal has to be assessed against the criteria of other relevant development plan policies. In my opinion, the principle of the development is acceptable and in accordance with policy 5/1 and 3/10 Cambridge Local Plan 2006 and Cambridge City Council Guidance on Development which Affects Private Gardens (June 2011).

### **Context of site, design and external spaces**

- 8.5 This whole site is set back from the Bishops Road frontage. There is an access off Bishops Road which also serves the rear outbuildings of properties that face Bishops Road. The area is residential in character and there is already a bungalow on site. This will be demolished and replaced with two dwellings. The existing house will be extended to the side. The buildings on site are not visible from the public realm due to the mature green cover on Shelford Road.

### **New Dwellings**

- 8.6 The general character of the area is of semidetached and detached dwellings with front and rear gardens. The proposed scheme reflects the scale and mass of the dwellings in the locality with a two storey main element and single-storey wings, I do not consider that the proposal has a detrimental impact on the character and design of the area. Looking at the surrounding area there is no general pattern for sites. There is a mixture of plot sizes and buildings within the plots and I consider that the proposed units reflect the general character of

the area with detached buildings and space for amenity. The Landscape Officer has commented that the proposal is acceptable and a full hard and soft landscaping condition (13) is recommended to ensure that the surrounding area of the new dwellings is acceptable and I agree with their advice.

- 8.7 I also consider that subject to the use of appropriate external materials (Condition 4) the proposal will not be detrimental to the character and context of the site.

#### Existing House

- 8.8 The existing house is being extended to the side. The proposal will be to the southern side of the existing building and measure 6.2m at the widest point and 11.2m deep. The proposal will be subservient to the main house with the eaves lower than the existing house. Although this element comes closer to the properties facing Bishops Road, there is a distance of 40m from proposed building to building. Given the distance and relatively low height I do not consider that this element will have a significant impact upon the neighbouring occupiers. Other properties in the area have been extended and I consider that subject to the use of matching materials (Condition 3) the proposal is acceptable.
- 8.9 Subject to conditions, in my opinion the proposal is compliant with Cambridge Local Plan (2006) policies 3/4, 3/7, 3/11, 3/12.

#### **Residential Amenity**

Impact on amenity of neighbouring occupiers

#### New Dwellings

*Overlooking and loss of privacy*

- 8.10 There is an existing bungalow on the site. This is to be demolished and replaced with two-storey dwellings with single storey wings. The proposed dwellings will mirror each other in size and scale and will have main outlook towards the access road and Lantree Close. I do not consider that there will be a significant overlooking issue between the two proposed houses and number 20 and 22 Lantree Close. Both new

dwellings have rear (west facing) bedrooms windows at first and second floor.

- 8.11 The first and second floor windows facing Lantree Close are a considerable distance, over 20m, to the properties on Lantree Close and there are mature trees along this boundary. The main window that could overlook the gardens on Bishops Road is served by a bathroom window but this would be from an oblique angle and I condition it to be obscure glazed. (Condition 5).

*Visual Amenity and overshadowing*

- 8.12 The main bulk will be visible from properties on Bishops Road and Lantree Close but this will not create a sense of enclosure as there will be sufficient distance and open views from each of the properties. Third party comments have raised concerns about this issue. I do note that the proposed dwellings will be visible from the rear garden area of Bishops Road and Lantree Close but I consider that the distance of more than 30 metres from building to building to Bishops Road and 25m from the two-storey element of unit 1 to 22 Lantree Close Lantree Close is sufficient to still have an openness to the rear parts of the garden areas. I consider that the distance and existing boundary treatment will help mitigate the development from the rear gardens. These gardens are shallow compared to the gardens of Bishops road. I still consider that as the main bulk of the proposed units is set back from the common boundary by 10.5m (unit 2) and 13m (unit 1) the proposal will not have an overbearing or sense of enclosure to these neighbours.
- 8.13 The issue of over shadowing will only be to the end part of the gardens to both Bishops Road in the later part of the afternoon as the sun is setting. The main bulk is set 90 degrees to the gardens of Bishops Road and the overshadowing impact will be to the rear part of the gardens and there are no windows in the upper part of the gable end for direct over looking to these neighbours and I do not consider that this would be a reasonable reason to withhold planning permission on this ground.

### *Trees and noise pollution*

- 8.14 Comments have been received regarding the loss of trees causing which in turn would lead to more pollution and noise. The trees are not protected either by a Tree Protection Order or located within a Conservation Area. The applicants have confirmed that there will be retained trees as well as replacement trees (12). I am not convinced that the noise will be significantly different as a result. These will be residential properties and there is already residential use on site.
- 8.15 Comments have been received about the construction of drains causing noise to the neighbouring occupiers. Environmental Health have recommended a condition to control working hours. I agree with their advice. Additionally the Environmental Health have also commented and recommended conditions relating to collection and deliveries, piling, dust, potential noise emission from electric substation and contaminated land. I agree with their advice and recommend conditions (6 to 10). I need further advice on the sub-station condition and will update on the amendment sheet regarding this condition.

### Extension

- 8.16 The side extension is over 33m from buildings facing Bishops Road. There is the access way and garages to the rear of the site and it will not have any significant impact upon these properties. There are no windows in the south elevation and there will not be any overlooking or loss of privacy.
- 8.17 Subject to conditions, in my opinion the proposal adequately respects the residential amenity of its neighbours and the constraints of the site and I consider that it is compliant with Cambridge Local Plan (2006) policies 3/4, 3/7, 3/10 and 3/12.

### Amenity for future occupiers of the site

- 8.18 The proposal creates two well-designed dwellings with sufficient amenity space around them to serve future occupiers. The layout and positioning will allow natural light to the main habitable rooms and I consider that this will create a good quality living environment.

- 8.19 In my opinion the proposal provides a high-quality living environment and an appropriate standard of residential amenity for future occupiers, and I consider that in this respect it is compliant with Cambridge Local Plan (2006) policies 3/7 and 3/12.

### **Refuse Arrangements**

- 8.20 Environmental Health originally commented that the proposal is unacceptable because there is no collection point for waste. The applicants have amended this and have introduced a collection point close to the entrance of the site and this is acceptable. The occupiers will have to place their bins in this location on collection days.
- 8.21 Both of the proposed units have a bin and bike storage. I consider that unit two is acceptable as it is within the garage area and there is sufficient space within this area to accommodate bins and bikes. Further details are required for unit 1 as the designated area does not have sufficient space to store three bins as well as bikes. I consider there is space on site to accommodate both and attach condition (11).
- 8.22 Subject to condition, in my opinion the proposal is compliant with Cambridge Local Plan (2006) policy 3/12.

### **Highway Safety**

- 8.23 Comments have been received regarding highway safety concerns with regard to parking and access to the site. The local highway engineer has not raised concerns regarding car parking and surface water run off subject to conditions (Conditions 13 to 20). I agree with the advice given and recommend the conditions.
- 8.24 Subject to condition, in my opinion the proposal is compliant with Cambridge Local Plan (2006) policy 8/2.

### **Car Parking**

- 8.25 Comments have been received regarding car parking on site. Each unit has a garage for two cars and space for bikes. This conforms with the Cambridge Local Plan (2006) car parking standards. The local highway engineer requested information

regarding the garage spaces showing internal garage space of 6m by 5.5m and 2.2m entrance. The applicants have provided this information and this element satisfies the local highway authority.

- 8.26 Subject to condition, in my opinion the proposal is compliant with Cambridge Local Plan (2006) policies 8/6 and 8/10.

### **Surface Water Drainage**

- 8.27 Comments have been received about adequate drainage to the access route and flooding caused by it. I consider that a surface water drainage strategy is appropriate to mitigate this and recommend a condition (21).

- 8.28 Subject to condition, in my opinion the proposal is compliant with National Planning Policy Framework (2012).

### **Archaeology**

- 8.29 County Archaeology have commented that the area is known for high archaeology remains and therefore recommend a condition. I agree with their advice and recommend a condition (22).

- 8.30 Subject to condition, in my opinion the proposal is compliant with Cambridge Local Plan (2006) policy 4/9.

### **Third Party Representations**

- 8.31 The access is on private land and the responsibility of the road will be for the owners of the land. The applicant has confirmed that this will be the case as they reside in 2a Bishops Road. This will be a civil matter relating to ownership and could not be used as a reasonable reason for refusal.

- 8.32 The use of the compound store has been clarified as a temporary construction compound and will be for storage of tools, materials and workmen facilities. This will be removed once the works have been completed.

- 8.33 The construction of the development and making sure that the structures are safe is covered by separate legislation and would not be reasonable to withhold planning permission on this ground.
- 8.34 Comments have been raised regarding the highways reviewing the road markings along this section of Bishops Road. They have not commented on this specific issue and have not raised a concern regarding highway safety.

## **Planning Obligation Strategy**

### **Planning Obligations**

- 8.35 The Community Infrastructure Levy Regulations 2010 have introduced the requirement for all local authorities to make an assessment of any planning obligation in relation to three tests. If the planning obligation does not pass the tests then it is unlawful. The tests are that the planning obligation must be:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

In bringing forward my recommendations in relation to the Planning Obligation for this development I have considered these requirements. The Planning Obligation Strategy (2010) provides a framework for expenditure of financial contributions collected through planning obligations. The applicants have indicated their willingness to enter into a S106 planning obligation in accordance with the requirements of the Strategy and relevant Supplementary Planning Documents. The proposed development triggers the requirement for the following community infrastructure:

#### Open Space

- 8.36 The Planning Obligation Strategy requires that all new residential developments contribute to the provision or improvement of public open space, either through provision on site as part of the development or through a financial

contribution for use across the city. The proposed development requires a contribution to be made towards open space, comprising outdoor sports facilities, indoor sports facilities, informal open space and provision for children and teenagers. The total contribution sought has been calculated as follows.

- 8.37 The application proposes the erection of 2 four-bedroom houses. One residential unit would be removed, so the net total of additional residential units is 1. A house or flat is assumed to accommodate one person for each bedroom, but one-bedroom flats are assumed to accommodate 1.5 people. Contributions towards provision for children and teenagers are not required from one-bedroom units. The totals required for the new buildings are calculated as follows:

<b>Outdoor sports facilities</b>					
Type of unit	Persons per unit	£ per person	£per unit	Number of such units	Total £
studio	1	238	238		
1 bed	1.5	238	357		
2-bed	2	238	476		
3-bed	3	238	714		
4-bed	4	238	952	1	952
<b>Total</b>					<b>952</b>

<b>Indoor sports facilities</b>					
Type of unit	Persons per unit	£ per person	£per unit	Number of such units	Total £
studio	1	269	269		
1 bed	1.5	269	403.50		
2-bed	2	269	538		
3-bed	3	269	807		
4-bed	4	269	1076	1	1076
<b>Total</b>					<b>1076</b>



<b>Informal open space</b>					
Type of unit	Persons per unit	£ per person	£per unit	Number of such units	Total £
studio	1	242	242		
1 bed	1.5	242	363		
2-bed	2	242	484		
3-bed	3	242	726		
4-bed	4	242	968	1	968
<b>Total</b>					<b>968</b>

<b>Provision for children and teenagers</b>					
Type of unit	Persons per unit	£ per person	£per unit	Number of such units	Total £
studio	1	0	0		0
1 bed	1.5	0	0		0
2-bed	2	316	632		
3-bed	3	316	948		
4-bed	4	316	1264	1	1264
<b>Total</b>					<b>1264</b>

8.38 The applicants have completed and paid for the Unilateral Undertaking A of a S106 planning obligation to secure the requirements of the Planning Obligation Strategy (2010) and the Cambridge City Council Open Space Standards Guidance for Interpretation and Implementation (2010), I am satisfied that the proposal accords with Cambridge Local Plan (2006) policies 3/8 and 10/1 and the Planning Obligation Strategy 2010 and the Cambridge City Council Open Space Standards Guidance for Interpretation and Implementation (2010)

#### Community Development

8.39 The Planning Obligation Strategy (2010) requires that all new residential developments contribute to community development facilities, programmes and projects. This contribution is £1256 for each unit of one or two bedrooms and £1882 for each larger unit. The total contribution sought has been calculated as follows:

<b>Community facilities</b>			
Type of unit	£per unit	Number of such units	Total £
1 bed	1256		
2-bed	1256		
3-bed	1882		
4-bed	1882	1	1882
<b>Total</b>			<b>1882</b>

8.40 The applicants have completed and paid for the Unilateral Undertaking A of a S106 planning obligation to secure the requirements of the Planning Obligation Strategy (2010), I am satisfied that the proposal accords with Cambridge Local Plan (2006) policies 5/14 and 10/1 and the Planning Obligation Strategy 2010.

#### Planning Obligations Conclusion

8.41 It is my view that the planning obligation is necessary, directly related to the development and fairly and reasonably in scale and kind to the development and therefore the Planning Obligation passes the tests set by the Community Infrastructure Levy Regulations 2010.

## **9.0 CONCLUSION**

The proposal is for the replacement of the existing bungalow with two dwellings and an extension to the existing house. In my opinion the proposed development is in accordance with the Local Plan policies and I consider that the proposal will not have a detrimental impact on either the character of the area or on residential amenity. I recommend APPROVAL.

## **10.0 RECOMMENDATION**

**APPROVE** subject to completion of the s106 Agreement and the following conditions:

1. 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 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. The extension hereby permitted shall be constructed in external materials to match the existing building in type, colour and texture.

Reason: To ensure that the extension is in keeping with the existing building. (Cambridge Local Plan 2006 policies 3/4, 3/12 and 3/14)

4. No development shall take place until samples of the materials to be used in the construction of the external surfaces of the development 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 that the appearance of the external surfaces is appropriate. (Cambridge Local Plan 2006 policies 3/4, 3/12 and 3/14)

5. The window serving the bathroom as shown on the plans at first floor level to Unit 2 shall be obscure glazed to Pilkington Level 3 or above and any opening shall be 1.7m above floor level and retained thereafter.

Reason: To protect the amenity of the neighbouring occupiers. (Cambridge Local Plan (2006) policies 3/7 and 3/14).

6. Except with the prior written agreement of the local planning authority no construction work or demolition shall be carried out or plant operated other than between the following hours: 0800 hours to 1800 hours Monday to Friday, 0800 hours to 1300 hours on Saturday and at no time on Sundays, Bank or Public Holidays.

Reason: To protect the amenity of the adjoining properties.  
(Cambridge Local Plan 2006 policy 4/13)

7. Except with the prior written agreement of the local planning authority, there should be no collection or deliveries to the site during the demolition and construction stages outside the hours of 0700 hrs and 1900 hrs on Monday - Saturday and there should be no collections or deliveries on Sundays or Bank and public holidays.

Reason: To protect the amenity of the adjoining properties.  
(Cambridge Local Plan 2006 policy 4/13)

8. In the event of the foundations for the proposed development requiring piling, prior to the development taking place 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 5228-1&2:2009 Code of Practice for noise and vibration control on construction and open sites. Development shall be carried out in accordance with the approved details.

Reason: To protect the amenity of the adjoining properties.  
(Cambridge Local Plan 2006 policy 4/13) .

9. No development shall commence until a programme of measures to minimise the spread of airborne dust from the site during the demolition / construction period has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved scheme.

Reason: To protect the amenity of the adjoining properties.  
(Cambridge Local Plan 2006 policy 4/13)

10. No development approved by this permission shall be COMMENCED prior to a contaminated land assessment and associated remedial strategy, being submitted to the LPA and receipt of approval of the document/documents from the LPA. This applies to paragraphs a), b) and c). This is an iterative process and the results of each stage will help decide if the following stage is necessary.

(a) The contaminated land assessment shall include a desk study to be submitted to the LPA for approval. The desk study shall detail the history of the site uses and propose a site investigation strategy based on the relevant information discovered by the desk study. The strategy shall be approved by the LPA prior to investigations commencing on site.

(b) The site investigation, including relevant soil, soil gas, surface and groundwater sampling, shall be carried out by a suitable qualified and accredited consultant/contractor in accordance with a quality assured sampling and analysis methodology.

(c) A site investigation report detailing all investigative works and sampling on site, together with the results of the analysis, risk assessment to any receptors and a proposed remediation strategy shall be submitted to the LPA. The LPA shall approve such remedial works as required prior to any remediation commencing on site. The works shall be of such a nature as to render harmless the identified contamination given the proposed end use of the site and surrounding environment including any controlled waters.

No development approved by this permission shall be OCCUPIED prior to the completion of any remedial works and a validation report/s being submitted to the LPA and receipt of approval of the document/documents from the LPA. This applies to paragraphs d), e) and f).

(d) Approved remediation works shall be carried out in full on site under a quality assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance.

(e) If, during the works contamination is encountered which has not previously been identified then the additional contamination shall be fully assessed and an appropriate remediation scheme agreed with the LPA.

(f) Upon completion of the works, this condition shall not be discharged until a closure report has been submitted to and approved by the LPA. The closure report shall include details of the proposed remediation works and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology. Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from site.

Reason: To protect the amenity of the adjoining properties.  
(Cambridge Local Plan 2006 policy 4/13)

11. Notwithstanding the layout plans for unit 1, full details regarding the store area to accommodate three bins and 4 bike spaces shall be submitted to and agreed in writing with the local planning authority. The development shall then be implemented in accordance with the approved details.

Reason: To ensure adequate space is provided for bin storage.  
(Cambridge Local Plan (2006) policy 3/7)

12. No development 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 and these works shall be carried out as approved. These details shall include proposed finished levels or contours; means of enclosure; car parking layouts, details of works within the root protection area of trees to be retained, other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (eg furniture, play equipment, refuse or other storage units, signs, lighting); proposed and existing functional services above and below ground (eg drainage, power, communications cables, pipelines indicating lines, manholes, supports); retained historic landscape features and proposals for restoration , where relevant. Soft Landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate and an implementation programme.

Reason: In the interests of visual amenity and to ensure that suitable hard and soft landscape is provided as part of the development. (Cambridge Local Plan 2006 policies 3/4, 3/11 and 3/12)

13. No unbound material shall be used in the surface finish of the driveway within 6 metres of the highway boundary of the site.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety. (Cambridge Local Plan (2006) policy 8/2)

14. Notwithstanding the provision of Class A of Schedule 2, Part 2 of the Town and Country Planning (General Permitted Development) Order 1995, (or any order revoking, amending or re-enacting that order) no gates shall be erected across the approved access unless details have first been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety. (Cambridge Local Plan (2006) policy 8/2)

15. Prior to the commencement of the first use the vehicular access where it crosses the public highway shall be laid out and constructed in accordance with the Cambridgeshire County Council construction specification.

Reason: In the interests of highway safety and to ensure satisfactory access into the site. (Cambridge Local Plan (2006) policy 8/2)

16. 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, in consultation with the Highway Authority.

Reason: To prevent surface water discharging to the highway. (Cambridge Local Plan (2006) policy 8/2)

17. The manoeuvring areas shall be provided as shown on the drawings and retained free of obstruction.

Reason: In the interests of highway safety. (Cambridge Local Plan (2006) policy 8/2)

18. The access shall be provided as shown on the approved drawings and a width of access of 5 metres provided for a minimum distance of ten metres from the highway boundary and retained free of obstruction.

Reason: In the interests of highway safety. (Cambridge Local Plan (2006) policy 8/2)

19. No part of any structure may overhang or encroach under or upon the public highway unless licensed by the Highway Authority and no gate / door / ground floor window shall open outwards over the public highway.

Reason: In the interests of highway safety. (Cambridge Local Plan (2006) policy 8/2)

20. Two 2.0 x 2.0 metres visibility splays shall be provided as shown on the drawings. The splays are to be included within the curtilage of the new dwelling. One visibility splay is required on each side of the access onto the public highway, measured to either side of the access, with a set-back of two metres from the highway boundary along each side of the access. This area shall be kept clear of all planting, fencing, walls and the like exceeding 600mm high.

Reason: In the interests of highway safety. (Cambridge Local Plan (2006) policy 8/2)

21. Prior to the commencement of development a surface drainage strategy shall be submitted to and agreed in writing by the local planning authority. The proposal shall then be implemented in accordance with the approved plans.

Reason: To ensure that surface water does not cause flooding to the surrounding area. (National Planning Policy Framework (2012))



22. No development shall take place within the area indicated until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.

Reason: To ensure any remains are safeguarded. (Cambridge Local Plan (2006) policy 4/9)

**INFORMATIVE:** Due to the proximity of this site to existing residential premises and other noise sensitive premises, impact pile driving is not recommended.

**INFORMATIVE:** To satisfy the condition requiring the submission of a program of measures to control airborne dust above, the applicant should have regard to:

o Council's Supplementary Planning Document 'Sustainable Design and Construction 2007':  
<http://www.cambridge.gov.uk/public/docs/sustainable-design-and-construction-spd.pdf>

o Control of dust and emissions from construction and demolition - Best Practice Guidance produced by the London Councils:  
[http://www.london.gov.uk/thelondonplan/guides/bpg/bpg\\_04.jsp](http://www.london.gov.uk/thelondonplan/guides/bpg/bpg_04.jsp)

**INFORMATIVE:** This development involves work to the public highway that will require the approval of the County Council as Highway Authority. It is an OFFENCE to carry out any works within the public highway, which includes a public right of way, without the permission of the Highway Authority. Please note that it is the applicants responsibility to ensure that, in addition to planning permission, any necessary consents or approvals under the Highways Act 1980 and the New Roads and Street Works Act 1991 are also obtained from the County Council.

**INFORMATIVE:** Public Utility apparatus may be affected by this proposal. Contact the appropriate utility service to reach agreement on any necessary alterations, the cost of which must be borne by the applicant.

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BISHOPS ROAD, TRUMPINGTON, CAMBRIDGE

LOCATION PLAN AUGUST 2013

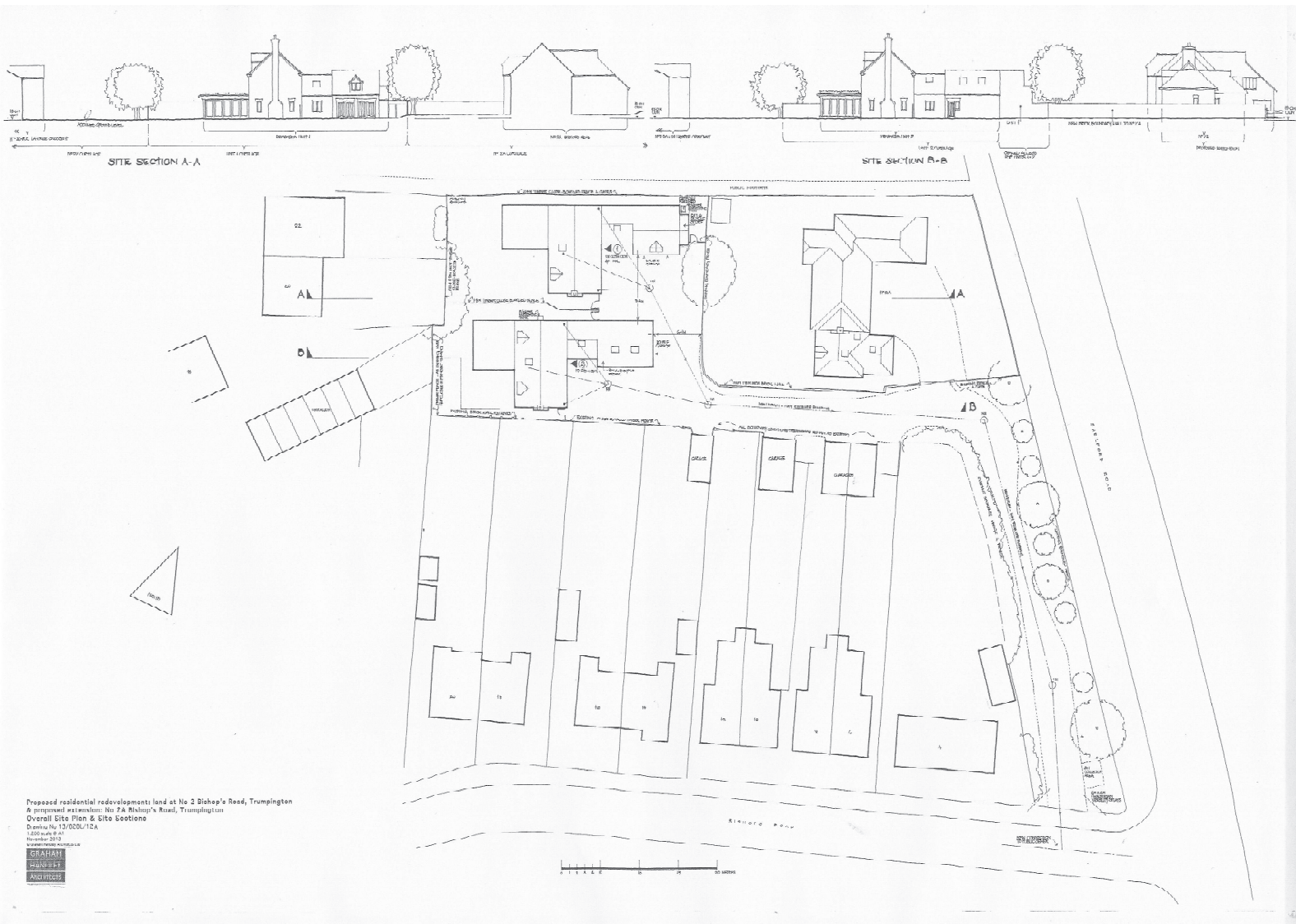


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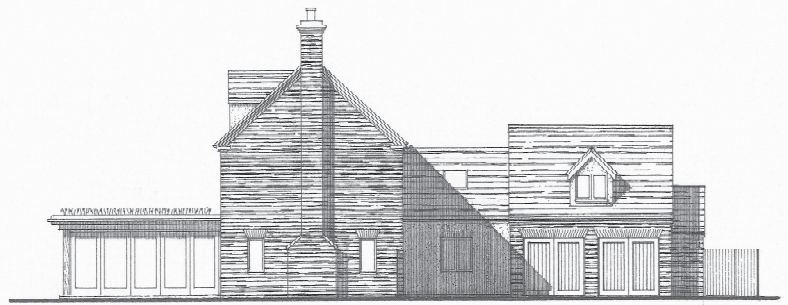


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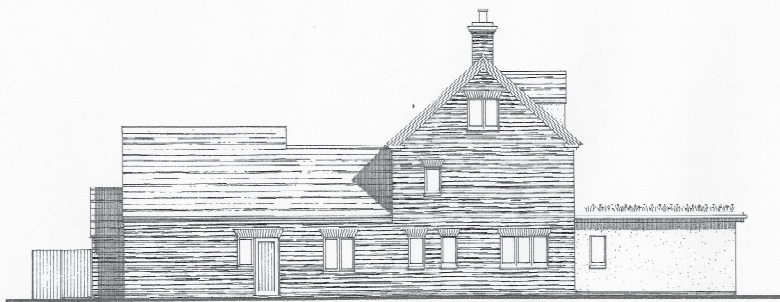
Unit 1



NORTH - EAST ELEVATION



SOUTH - EAST ELEVATION



NORTH - WEST ELEVATION



SOUTH - WEST ELEVATION

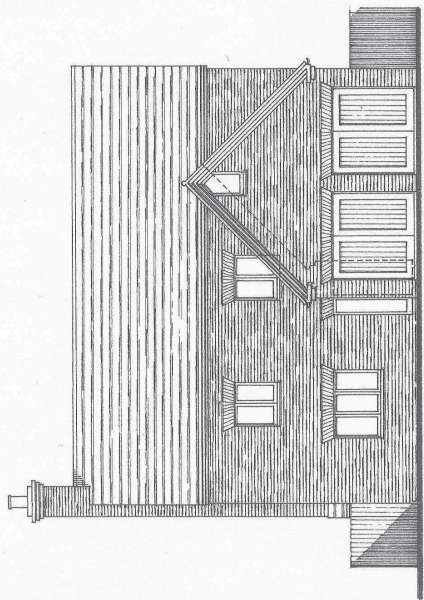
Proposed residential redevelopment: land at No 2 Bishop's Road, Trumpington  
 Unit 1: Elevations - as Proposed  
 Drawing No 13/828L/16A  
 11.11.13 09:56 AM  
 November 2013  
 © Graham Handley Architects Ltd



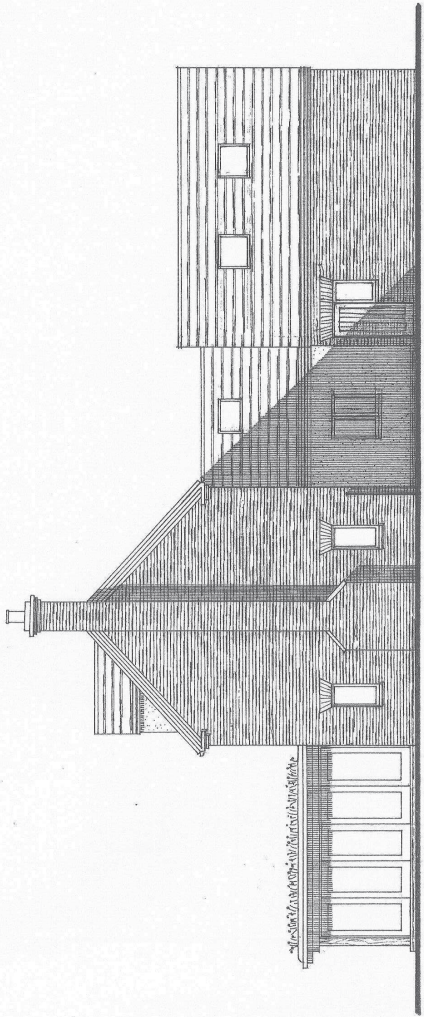
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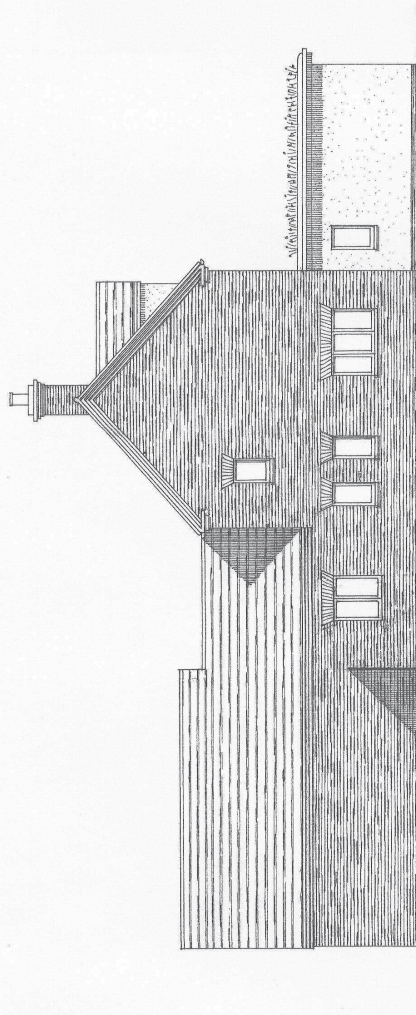




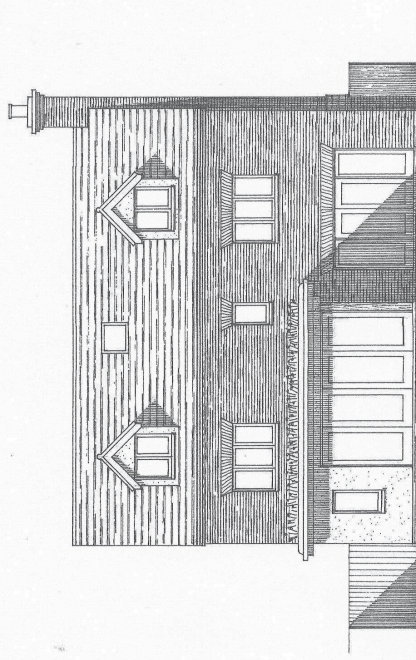
NORTH - EAST ELEVATION



SOUTH - EAST ELEVATION



NORTH - WEST ELEVATION



SOUTH - WEST ELEVATION



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<b>Application Number</b>	13/1836/FUL	<b>Agenda Item</b>	
<b>Date Received</b>	16th January 2014	<b>Officer</b>	Ms Janine Richardson
<b>Target Date</b>	13th March 2014		
<b>Ward</b>	Trumpington		
<b>Site</b>	Land To Rear Of 1 - 8 Anstey Way Anstey Way Cambridge Cambridgeshire		
<b>Proposal</b>	Erection of two 4- bed houses.		
<b>Applicant</b>	Ms Sabrina Walston Customer and Community Services Cambridge City Council PO Box 700 Cambridge Cambridge CB1 0JH UK		

<b>SUMMARY</b>	<p>The development accords with the Development Plan for the following reasons:</p> <p>Provide additional housing on a windfall site.</p> <p>No significant impact in terms of residential amenity to the neighbouring occupiers.</p> <p>Provide highly sustainable homes at Level 5 of the Code for Sustainable Homes.</p>
<b>RECOMMENDATION</b>	<b>APPROVAL</b>

## **0.0 INTRODUCTION**

0.1 This report is set out in two parts. The first part is an update to the report which was considered by the South Area Committee on 3 March 2014 and an assessment of the amendments submitted in response to the Committee's concerns. The second part is the report which was presented to Committee on 3 March which remains unchanged except for corrections that were highlighted on the amendment sheet and amended date to complete the Section 106 by 31 May 2014.

## **PART ONE – UPDATE TO 3 MARCH 214 COMMITTEE REPORT**

### **A1 BACKGROUND**

A1.1 At the South Area Committee on 3 March 2014, members deferred the application as there were concerns about the design and character of the building.

### **A2 AMENDED PROPOSAL**

A2.1 The applicant has amended the proposals. The changes include:

- Canopies and pergolas added with climbing plants
- Revised timber cladding detail
- Lined window reveals
- Addition of Juliet balcony to south and east elevations
- Coloured front doors and window frames

### **A3 CONSULTATIONS AND REPRESENTATIONS ON AMENDED PROPOSAL**

A3.1 As the consultation period is still running at the time of writing the report these will be addressed on the amendment sheet or verbally at the meeting.

### **A4 ASSESSMENT OF AMENDED PLANS**

A4.1 The proposed amendments have sought to add variety and interest to the exterior appearance of the building to alleviate concerns about its integration within the street scene. The applicant has provided a 3D image to show how the buildings would appear in the street. It is proposed that the timber cladding will have vertical projecting strips at varying degrees on different elevations of the building. On the east elevation fronting Lingrey Court, the projecting boards would be every 2-5 boards which will help add texture to the building and will assist with solar shading. The projecting timber is phased out to the north elevation which will receive little direct sunlight with flush timber, in order to maximise daylight to the inside. The

proposed timber is lighter than the initial proposals, to tie in with the properties in Lingrey Court.

- A4.2 The addition of timber pergolas and canopies at the front and side of the houses will provide a framework for climbing plants as recommended in the ecology report such as clematis, ivy hop and honeysuckle. The window reveals will be lined with timber head and reveal boards which will soften the visual appearance. Juliet balconies are proposed on the east elevation fronting Lingrey Court and south elevation, fronting Anstey Way. These will add interest to the prominent street elevations. The proposed lime green and light blue front doors and colour to some window frames will add to the interest of the building and accentuate the individual dwellings.
- A4.3 All these changes will add interest to the buildings and provide more articulated elevations rather than a uniform solid structure as in the original proposal. This will soften the impact of the buildings within the street and they will tie in with the properties on Lingrey Court with similar colour cladding.

## **PART TWO – 3 MARCH 2014 REPORT WITH AMENDED RECOMMENDATION**

Part Two of this report re-produces my original 3 March 2014 report and allows the Committee to determine the application in light of the amended proposals and to consider the recommendation as originally put forward.

### **1.0 SITE DESCRIPTION/AREA CONTEXT**

- 1.1 The site lies on the corner of Anstey Way to the back of the three storey curved parade of shops and flats. To the north are two storey semi-detached houses and a single storey house at 89 High Street. To the east lies a series of single storey bungalows and to the west six garages. There is an Indian bean tree adjacent to the site to the south and a number of trees along the north boundary in the garden of 42 Lingrey Court. The site abuts the Trumpington Conservation Area on its north and west boundaries.
- 1.2 The existing site is a grass lawn with concrete strips providing access for drying laundry on washing lines and is enclosed by a

wooden fence. There is a small communal bin store associated with the flats on the southern boundary.

## **2.0 THE PROPOSAL**

- 2.1 Full planning permission is sought for the erection of two semi-detached, four bedroom houses. It is proposed that one house will be for affordable rent and one for private sale.
- 2.2 The proposed houses are three storey and flat roofed. They would be set back 6m from the footpath to allow for two parking spaces for each house at the front accessed off Anstey Way. Side access for each house to a rear garden is proposed with bin storage to the side of the houses and a separate cycle shed within the rear gardens.
- 2.3 The design and treatment of the proposed dwellings reflect the approach that is likely to come forward as part of the QUAD scheme. A simple palette of materials is proposed consisting of cream brick for the ground floor and vertical timber cladding for upper floors. This cladding will be heat treated softwood (Kebony).
- 2.4 The existing communal bin store will be relocated to the west of the site adjacent to the proposed rear gardens.
- 2.5 The proposed houses are to be built to meet Code for Sustainable Homes Level 5 and their design and construction process will feed into the design of the 209 homes proposed at the City Council owned site within the Clay Farm site (known as the QUAD development). Once completed the houses will be monitored for environmental performance. Both proposed dwellings are designed to be Lifetime Home compliant.
- 2.6 The application is accompanied by the following supporting information:
  - 1 . Design & Access Statement
  - 2 . Ecological Appraisal
  - 3 . Arboricultural Impact Assessment
- 2.7 Amended plans have been received which show the following revisions:

- Dimensions of car parking and reversing space and pedestrian visibility splays
- Corrected elevations/plans to show window location

2.8 The application is brought before Committee as the applicant is Cambridge City Council. There are objections to the proposal.

### 3.0 SITE HISTORY

None

### 4.0 PUBLICITY

4.1 Advertisement:	No
Adjoining Owners:	Yes
Site Notice Displayed:	Yes

### 5.0 POLICY

5.1 See Appendix 1 for full details of Central Government Guidance, Cambridge Local Plan 2006 policies, Supplementary Planning Documents and Material Considerations.

5.2 Relevant Development Plan policies

PLAN		POLICY NUMBER
Cambridge Plan 2006	Local	3/1 3/4 3/7 3/9 3/11 3/12 3/14 4/13 5/1 7/3 8/6 8/10 10/1

5.3 Relevant Central Government Guidance, Supplementary Planning Documents and Material Considerations

Central Government Guidance	National Planning Policy Framework March 2012  Circular 11/95  Community Infrastructure Levy Regulations 2010
Supplementary Planning Documents	Sustainable Design and Construction  Cambridgeshire and Peterborough Waste Partnership (RECAP)  Planning Obligation Strategy
Material Considerations	<u>Central Government:</u>  Letter from Secretary of State for Communities and Local Government (27 May 2010)  Written Ministerial Statement: Planning for Growth (23 March 2011)  National Planning Practice Consultation

#### 5.4 Status of Proposed Submission – Cambridge Local Plan

Planning applications should be determined in accordance with policies in the adopted Development Plan and advice set out in the NPPF. However, after consideration of adopted plans and the NPPF, policies in emerging plans can also be given some weight when determining applications. For Cambridge, therefore, the emerging revised Local Plan as published for consultation on 19 July 2013 can be taken into account, especially those policies where there are no or limited objections to it. However it is likely, in the vast majority of instances, that the adopted development plan and the NPPF will have considerably more weight than emerging policies in the revised Local Plan.

For the application considered in this report, the following policies in the emerging Local Plan are of relevance:

Policy 51: Lifetime Homes and Lifetime Neighbourhoods



Policy 55: Responding to context  
Policy 57: Designing new buildings  
Policy 71: Trees

## **6.0 CONSULTATIONS**

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

- 6.1 Pedestrian visibility splays should be shown on the drawings. Dimensions for the proposed car parking spaces must be shown which should be 2.m x 5m with a 6m reversing space. Conditions regarding surfacing, permitted development restrictions, construction specifications, measures for surface water run-off and retention of visibility splays are recommended.

### **Head of Refuse and Environment**

- 6.2 No objection in principle. Recommend conditions for standard construction/delivery hours and piling.

### **Urban Design and Conservation Team**

- 6.3 The application is acceptable in design terms. Further details of the proposed materials needs to be provided including junctions between the timber cladding and facing brickwork and texture of the cladding. Recommend a robust brick wall boundary is needed surrounding the community recycling and refuse point.

### **Senior Sustainability Officer (Design and Construction)**

- 6.4 The proposed houses are being developed in order to test and feed into the design of the 209 homes proposed at 'the Quad' development at Clay Farm. Bringing forward an exemplar of high quality design, sustainable construction and low carbon living. Requirement for the homes to meet Level 5 of the Code for Sustainable Homes. This equates to a 100% reduction in the carbon emissions associated with regulated energy use in the home (heating ventilation, lighting). Once built it proposed that the environmental performance will be monitored to ensure ease of use for residents and to ensure that the technologies utilised to meet the required Code standard is performing as intended.

### **Head of Streets and Open Spaces (Landscape Team)**

- 6.5 No objections. Recommend conditions on hard and soft landscaping details, boundary treatments, and replacement planting.

### **Head of Streets and Open Spaces (Tree Team)**

- 6.6 No objection to the proposal. A condition for an Arboricultural Method Statement and Tree Protection Plan is recommended.

### **Nature Conservation Officer**

- 6.7 The submitted Phase 1 and Protected Species assessment have flagged up no ecological concerns. Suggest integrated nest boxes as an ecological enhancement for the scheme are included.

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.

## **7.0 REPRESENTATIONS**

- 7.1 The owners/occupiers of the following addresses have made representations:

- 42 Lingrey Court (objection)
- 30 Lingrey Court (objection)
- 40 Lingrey Court (support)

- 7.2 The representations can be summarised as follows:

- Overbearing, imposing, out of character and over development of site
- Height of building will overshadow 42 Lingrey Court and windows in north elevation will overlook leading to some loss of privacy
- Increase in noise and disturbance
- Will exacerbate the traffic and parking problems in area
- Road safety concerns for elderly and disabled pedestrians
- Large area of cladding would be a dark mass in enclosed area
- Dangerous reversing out onto narrow road
- Rainwater into mains sewer is not sustainable

- Internal layout is not suitable for four bed house
- Erodes provision of green space in local area and loss of habitat
- Full support that neglected piece of council land will be developed

7.3 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.

## **8.0 ASSESSMENT**

8.1 From the consultation responses and representations received and from my inspection of the site and the surroundings, I consider that the main issues are:

- 1 . Principle of development
- 2 . Context of site, design and external spaces
- 3 . Residential amenity
- 4 . Refuse arrangements
- 5 . Highway safety
- 6 . Car and cycle parking
- 7 . Third party representations
- 8 . Planning Obligation Strategy

### **Principle of Development**

8.2 The existing site is an unused fenced off area that was used for drying laundry. The site is not allocated or protected open space within the current or emerging local plan. Policy 5/1 of the Cambridge Local Plan allows for residential development from windfall sites, subject to the existing land use and compatibility with adjoining uses, which is discussed in the amenity section below. This is a good site to maximise the use of the land for additional residential units in a predominately residential area. The proposal is therefore in compliance with these policy objectives.

8.3 The proposal will be an exemplar in sustainability, designed to Passivhaus principles, with a compact form, super insulated envelope, triple glazed windows, high air tightness and the use of mechanical ventilation with heat recovery (MVHR). It will feature bio-diverse green roofs with photovoltaic panels, responsible sourcing of ecologically friendly materials, locally

sourced, use of prefabricated timber frame, smart metering of energy use, dual aspect living and high window head heights to achieve natural daylight and limited water use are all features that are supported and proposed in a modern, contemporary design.

- 8.4 There is no objection in principle to residential development, but the proposal has to be assessed against the criteria of the other relevant development plan policies. The principle of development is considered acceptable and in accordance with policy 5/1 of Cambridge Local Plan 2006 and the Sustainable Design and Construction SPD 2007.

### **Context of site, design and external spaces**

- 8.5 The proposed dwellings are three storeys (9.2m) in height with a flat roof and rise approximately 0.5m above the ridge height of the adjacent semi-detached dwellings (No. 41-42 Lingrey Court) to the north but sit well below the ridge height of the large footprint three storey flat blocks to the south. The proposed scale and massing is considered acceptable and creates a transition from the three storey flat block to the south. The setback of the units (6m) from the back of the footpath on Anstey Way together with the retained mature tree on the southern corner of the site helps soften the proposal from views looking north from the junction of Anstey Way. The proposed photovoltaic panels will be set behind a 0.4m high parapet wall and will be at an angle of 15%, so they will be concealed from view from street level.
- 8.6 The existing dwellings surrounding the site are predominately buff and cream facing brick. The houses on the north and western sides of Anstey Way and within Lingrey Court have a dark brown cladding at first floor. The proposed materials would therefore relate well to the existing materials in the area but given that both first and second floors are proposed in wood cladding I consider that the sample of this material needs to be agreed before construction to ensure that it is not too dark in appearance. The junction between the brickwork and timber cladding needs to be well detailed. Conditions are therefore recommended to ensure that the details of the materials and finishes are acceptable.

- 8.7 The trees adjacent to the site are to be retained. The applicant has provided an arboricultural impact assessment which identifies works and protection that will be required during construction. A condition is therefore recommended to ensure that protection is carried out. An Ecological appraisal for the site has been provided by the applicant which has raised no ecological concerns. The applicant has confirmed they can include integrated nesting boxes as an ecological enhancement to the scheme as recommended by the Nature Conservation Officer. In my opinion the proposal is compliant with Cambridge Local Plan (2006) policies 4/3 and 4/4.

### **Residential Amenity**

#### Impact on amenity of neighbouring occupiers

- 8.8 The proposed houses would be 14 metres to the south of no. 42 Lingrey Court, from the southern elevation of that property. There is a single storey pitched roof garage to the south of no. 42, which is set back to which the new houses would line up with. Although the proposed houses would be a height of 9.2 m, given this distance and the location of the garage, there would not be significant overshadowing of this property or its garden.
- 8.9 There is a proposed window in the north elevation, but this is at high level. There would be no direct overlooking therefore to the rear garden of no. 42. There would be some views afforded to the side garden of the infill bungalow 89 High street, from the window in the west elevation but this is already to some degree overlooked by the existing flats and surrounding properties.
- 8.10 In my opinion the proposal adequately respects the residential amenity of its neighbours and the constraints of the site and I consider that it is compliant with Cambridge Local Plan (2006) policies 3/4, 3/7 and 3/12.

#### Amenity for future occupiers of the site

- 8.11 The proposed houses will have adequate amenity space and rear west facing gardens. The depth of gardens on this irregularly shaped site would range from 8.5 to 11.5 metres. In my opinion the proposal provides a high-quality living environment and an appropriate standard of residential amenity

for future occupiers, in this respect it is compliant with Cambridge Local Plan (2006) policies 3/7 and 3/12.

### **Refuse Arrangements**

- 8.12 Suitable storage for waste receptacles is proposed for within the within side access of each dwelling. The existing communal waste/recycling storage for the flats to the south of the site will be repositioned to the west bounded by a new close boarded fence. This will still be suitably located for the users and is considered acceptable.
- 8.13 In my opinion the proposal is compliant with Cambridge Local Plan (2006) policy 3/12.

### **Highway Safety**

- 8.14 Third party representations have raised concern regarding road safety in the area. The highway authority is satisfied with the updated plans that show the measurements of the car parking spaces, reversing space and revised pedestrian visibility splays. Conditions are recommended to ensure retention of the visibility splays.
- 8.15 In my opinion the proposal is compliant with Cambridge Local Plan (2006) policy 8/2.

### **Car and Cycle Parking**

#### **Car Parking**

- 8.16 The proposal includes two off street car parking spaces for each dwelling which is the maximum requirement under policy 8/10 of the Local Plan (2006). Third party concerns have been raised regarding parking in the area for residents, deliveries and shop users. There are no parking restrictions on street along Anstey Way to the north of the site. There are parking bays on Anstey Way to the south opposite the shops with a 2 hour waiting restriction. Given the proposal will accommodate off street car parking for the new dwellings this should not lead to additional pressure on existing on-street spaces.

## Cycle Parking

- 8.17 The proposal includes secure cycle parking within wooden sheds located within the rear gardens. This will accommodate four cycles for each dwelling which is in accordance with the cycle parking standards.
- 8.18 In my opinion the proposal is compliant with Cambridge Local Plan (2006) policies 8/6 and 8/10.

## Third Party Representations

- 8.19 The third party comments received relating to overbearing, overshadowing, loss of privacy, traffic and parking, road safety, green space and habitat and materials have been addressed in the sections above.
- 8.20 The applicant has confirmed that they will employ rainwater harvesting/attenuation tanks on site so there will be limited surface run-off entering into the main sewer. Inevitably additional residential units will create a degree of noise and disturbance but in the context of an existing residential environment this would be minimal.

## Planning Obligations

- 8.21 The Community Infrastructure Levy Regulations 2010 have introduced the requirement for all local authorities to make an assessment of any planning obligation in relation to three tests. If the planning obligation does not pass the tests then it is unlawful. The tests are that the planning obligation must be:
- (a) necessary to make the development acceptable in planning terms;
  - (b) directly related to the development; and
  - (c) fairly and reasonably related in scale and kind to the development.

In bringing forward my recommendations in relation to the Planning Obligation for this development I have considered these requirements.

The Planning Obligation Strategy (2010) provides a framework for expenditure of financial contributions collected through planning obligations. Cambridgeshire and Peterborough Waste Partnership (RECAP): Waste Management Design Guide provides advice on the requirements for internal and external waste storage, collection and recycling in new residential and commercial developments. The applicants have indicated their willingness to enter into a S106 planning obligation in accordance with the requirements of the Strategy and relevant Supplementary Planning Documents. The proposed development triggers the requirement for the following community infrastructure:

### Open Space

8.22 The Planning Obligation Strategy requires that all new residential developments contribute to the provision or improvement of public open space, either through provision on site as part of the development or through a financial contribution for use across the city. The proposed development requires a contribution to be made towards open space, comprising outdoor sports facilities, indoor sports facilities, informal open space and provision for children and teenagers. The total contribution sought has been calculated as follows.

8.23 The application proposes the erection of two, four-bedroom houses. A house or flat is assumed to accommodate one person for each bedroom. The totals required for the new buildings are calculated as follows:

<b>Outdoor sports facilities</b>					
Type of unit	Persons per unit	£ per person	£per unit	Number of such units	Total £
4-bed	4	238	952	2	1,904
<b>Total</b>					<b>1,904</b>



<b>Indoor sports facilities</b>					
Type of unit	Persons per unit	£ per person	£per unit	Number of such units	Total £
4-bed	4	269	1076	2	2,152
<b>Total</b>					<b>2,152</b>

<b>Informal open space</b>					
Type of unit	Persons per unit	£ per person	£per unit	Number of such units	Total £
4-bed	4	242	968	2	1,936
<b>Total</b>					<b>1,936</b>

<b>Provision for children and teenagers</b>					
Type of unit	Persons per unit	£ per person	£per unit	Number of such units	Total £
4-bed	4	316	1264	2	2,528
<b>Total</b>					<b>2,528</b>

8.24 Subject to the completion of a S106 planning obligation to secure the requirements of the Planning Obligation Strategy (2010) and the Cambridge City Council Open Space Standards Guidance for Interpretation and Implementation (2010), I am satisfied that the proposal accords with Cambridge Local Plan (2006) policies 3/8 and 10/1 and the Planning Obligation Strategy 2010 and the Cambridge City Council Open Space Standards Guidance for Interpretation and Implementation (2010).

#### Community Development

8.25 The Planning Obligation Strategy (2010) requires that all new residential developments contribute to community development facilities, programmes and projects. This contribution is J1256 for each unit of one or two bedrooms and J1882 for each larger unit. The total contribution sought has been calculated as follows:

<b>Community facilities</b>			
Type of unit	£per unit	Number of such units	Total £
4-bed	1882	2	3,764
<b>Total</b>			<b>3,764</b>

8.26 Subject to the completion of a S106 planning obligation to secure the requirements of the Planning Obligation Strategy (2010), I am satisfied that the proposal accords with Cambridge Local Plan (2006) policies 5/14 and 10/1 and the Planning Obligation Strategy 2010.

#### Waste

8.27 The Planning Obligation Strategy (2010) requires that all new residential developments contribute to the provision of household waste and recycling receptacles on a per dwelling basis. As the type of waste and recycling containers provided by the City Council for houses are different from those for flats, this contribution is J75 for each house and J150 for each flat. The total contribution sought has been calculated as follows:

<b>Waste and recycling containers</b>			
Type of unit	£per unit	Number of such units	Total £
House	75	2	150
Flat	150	0	
<b>Total</b>			<b>150</b>

8.28 Subject to the completion of a S106 planning obligation to secure the requirements of the Planning Obligation Strategy (2010), I am satisfied that the proposal accords with Cambridge Local Plan (2006) policies 3/7, 3/12 and 10/1 and the Planning Obligation Strategy 2010.

#### Monitoring

8.29 The Planning Obligation Strategy (2010) requires that all new residential developments contribute to the costs of monitoring the implementation of planning obligations. The costs are calculated according to the heads of terms in the agreement. The contribution sought will be calculated as £150 per financial

head of term and £300 per non-financial head of term.  
Contributions are therefore required on that basis.

### Planning Obligations Conclusion

- 8.30 It is my view that the planning obligation is necessary, directly related to the development and fairly and reasonably in scale and kind to the development and therefore the Planning Obligation passes the tests set by the Community Infrastructure Levy Regulations 2010.

## **9.0 CONCLUSION**

- 9.1 The proposal for two, four bedroom highly sustainable dwellings have been assessed to be acceptable and in accordance with Cambridge Local Plan 2006 and therefore approval is recommended.

## **10.0 RECOMMENDATION**

1. **APPROVE** subject to the satisfactory completion of the s106 agreement by 31 May 2014 and subject to the following conditions and informatives:

1. 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 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. No development shall take place until samples of the materials to be used in the construction of the external surfaces of the development 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 that the appearance of the external surfaces is appropriate. (Cambridge Local Plan 2006 policies 3/4, 3/12 and 3/14)

4. Prior to the commencement of development and with reference to BS 5837 2012, details of the specification and position of all protection measures and techniques to be adopted for the protection of any trees from damage during the course of any activity related to the development, shall be submitted to the local planning authority for its written approval in the form of an Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP).

The approved AMS and TPP will be implemented throughout the development and the agreed means of protection shall be retained on site until all equipment, and surplus materials have been removed from the site. Nothing shall be stored or placed in any area protected in accordance with this condition, and the ground levels within those areas shall not be altered nor shall any excavation be made without the prior written approval of the local planning authority.

Reason: To protect the visual amenity of the area and to ensure the retention of the trees on the site. (Cambridge Local Plan 2006 policies 3/4, 3/11, 3/12 and 4/4)

5. Except with the prior written agreement of the local planning authority no construction work or demolition shall be carried out or plant operated other than between the following hours: 0800 hours to 1800 hours Monday to Friday, 0800 hours to 1300 hours on Saturday and at no time on Sundays, Bank or Public Holidays.

Reason: To protect the amenity of the adjoining properties. (Cambridge Local Plan 2006 policy 4/13)

6. Except with the prior written agreement of the local planning authority, there should be no collection or deliveries to the site during the demolition and construction stages outside the hours of 0700 hrs and 1900 hrs on Monday - Saturday and there should be no collections or deliveries on Sundays or Bank and public holidays.

Reason: Due to the proximity of residential properties to this premises and that extensive refurbishment will be required, the above conditions are recommended to protect the amenity of these residential properties throughout the redevelopment in accordance with policies 4/13 and 6/10 of the Cambridge Local Plan (2006)

7. No unbound material shall be used in the surface finish of the driveways within 6 metres of the highway boundary of the site.

Reason: To avoid the displacement of loose material onto the highway in the interests of highway safety. (Cambridge Local Plan 2006 policy 8/2)

8. Notwithstanding the provision of Class A of Schedule 2, Part 2 of the Town and Country Planning (General Permitted Development) order 1995, (or any order revoking, amending or re-enacting that order) no gates shall be erected across either of the approved accesses unless details have first been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety. (Cambridge Local Plan 2006 policy 8/2)

9. The accesses shall be constructed with adequate drainage measures to prevent surface water run-off onto the adjacent public highway, in accordance with a scheme submitted to and approved in writing by the Local Planning Authority, in consultation with the Highway Authority. The accesses shall be provided as shown on the approved drawings and retained free of obstruction.

Reason: To prevent surface water discharging to the highway. (Cambridge Local Plan 2006 policy 8/2)

10. 2.0 x 2.0 metres visibility splays shall be provided as shown on the drawings. The splays are to be included within the curtilage of the new dwelling. One visibility splay is required on each side of each access, measured to either side of the access, with a set-back of two metres from the highway boundary along each side of the access. This area shall be kept clear of all planting, fencing, walls and the like exceeding 600mm high.

Reason: In the interests of highway safety. (Cambridge Local Plan 2006 Policy 8/2)

11. This development involves work to the public highway that will require the approval of the County Council as Highway Authority. It is an OFFENCE to carry out any works within the public highway, which includes a public right of way, without the permission of the Highway Authority. Please note that it is the applicant's responsibility to ensure that, in addition to planning permission, any necessary consents or approvals under the Highways Act 1980 and the New Roads and Street Works Act 1991 are also obtained from the County Council.

No part of any structure may overhang or encroach under or upon the public highway unless licensed by the Highway Authority and no gate / door / ground floor window shall open outwards over the public highway.

Public Utility apparatus may be affected by this proposal. Contact the appropriate utility service to reach agreement on any necessary alterations, the cost of which must be borne by the applicant.

**2. Unless prior agreement has been obtained from the Head of Planning, in consultation with the Chair and Spokesperson of this Committee to extend the period for completion of the Planning Obligation required in connection with this development, if the Obligation has not been completed by 31 May 2014 or if Committee determine that the application be refused against officer recommendation of approval, it is recommended that the application be refused for the following reason(s):**

The proposed development does not make appropriate provision for public open space, community development facilities, waste facilities, and monitoring in accordance with Cambridge Local Plan 2006 policies 3/7, 3/8, 3/12, 5/5, 5/14,

8/3 and 10/1 and as detailed in the Planning Obligation Strategy 2010, the Open Space Standards Guidance for Interpretation and Implementation 2010.

3. In the event that the application is refused, and an Appeal is lodged against the decision to refuse this application, delegated authority is sought to allow officers to negotiate and complete the Planning Obligation required in connection with this development.

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EAST ELEVATION (ROAD SIDE)



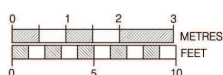
WEST ELEVATION (GARDEN SIDE)



SOUTH ELEVATION



NORTH ELEVATION



B	26.03.14	REVISED FOLLOWING COMMENTS FROM PLANNING AUTHORITY	TD	SB
A	05.02.14	REVISED FOLLOWING COMMENTS FROM PLANNING AUTHORITY	TD	SB
rev	date	notes	dm	aud

DRAWING STATUS				
PLANNING				
Project: QJAD HOUSE, ANSTEY WAY 38 Graham Street London N1 8JX				
<b>PTEa</b> POLLARD THOMAS EDWARDS architects				
T: 020 7336 7777 F: 020 7336 0770		URL: www.ptea.co.uk E: forename.surname@ptea.co.uk		
drawn	audited	scale	date	
TD	TB	1:100 @ A3	19.12.13	
dwg title	job no.	dwg no.	rev	
PROPOSED ELEVATIONS	13-705	PL_006	B	

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<b>Application Number</b>	13/1863/FUL	<b>Agenda Item</b>	
<b>Date Received</b>	16th January 2014	<b>Officer</b>	Mr Sav Patel
<b>Target Date</b>	13th March 2014		
<b>Ward</b>	Cherry Hinton		
<b>Site</b>	68 Mill End Road Cambridge Cambridgeshire CB1 9JP		
<b>Proposal</b>	Change of use from C3 dwelling to house in multiple occupation.		
<b>Applicant</b>	Mr John Scott 68 Mill End Road Cambridge Cambridgeshire CB1 9JP		

SUMMARY	<p>The development accords with the Development Plan for the following reasons:</p> <p>1) The proposed change of use would not have a significantly adverse impact on the character of the area as there would not be any external alterations to the principal elevations of the dwellings;</p> <p>2) The proposed change of use would not have a significantly adverse impact on the residential amenity of the adjoining neighbours;</p> <p>3) The HMO would be located within walking distance of bus stops and local shops and services.</p>
RECOMMENDATION	APPROVAL

## 1.0 SITE DESCRIPTION/AREA CONTEXT

1.1 No.68 is a detached bungalow with a room in the roof, and is set back from the road with car parking in front and a large rear garden, which contains an outbuilding used for additional living accommodation in connection with no.68.



1.2 The site is not located within an area of development constraint such as a Conservation Area or within close proximity to a listed building.

## 2.0 THE PROPOSAL

2.1 The proposal is for a change of use of the existing residential unit (C3 use) to a seven bed house in multiple occupancy (HMO). No external changes are proposed to the dwelling or outbuilding. The applicant has confirmed that the proposal does not include any change to the use of the outbuilding. However, the proposed HMO use would also apply to the outbuilding.

## 3.0 SITE HISTORY

No relevant planning history.

## 4.0 PUBLICITY

4.1 Advertisement:	No
Adjoining Owners:	Yes
Site Notice Displayed:	No

## 5.0 POLICY

### 5.1 Central Government Advice

**National Planning Policy Framework (March 2012)** – sets out the Government’s economic, environmental and social planning policies for England. These policies articulate the Government’s vision of sustainable development, which should be interpreted and applied locally to meet local aspirations.

**Circular 11/95 – The Use of Conditions in Planning Permissions:** Advises that conditions should be necessary, relevant to planning, relevant to the development permitted, enforceable, precise and reasonable in all other respects.

**Community Infrastructure Levy Regulations 2010** – places a statutory requirement on the local authority that where planning permission is dependent upon a planning obligation the obligation must pass the following tests:

(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.

## **5.2 Cambridge Local Plan 2006**

3/1 Sustainable development

3/4 Responding to context

5/7 Supported housing/Housing in multiple occupation

## **5.3 Material Considerations**

### **Central Government Guidance**

Letter from Secretary of State for Communities and Local Government (27 May 2010)

Written Ministerial Statement: Planning for Growth (23 March 2011)

## **6.0 CONSULTATIONS**

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

6.1 The proposal is likely to increase demand for on street parking which could affect the residential amenity of existing residents. No highway safety concerns.

### **Head of Refuse and Environment**

6.2 No objections subject to conditions/informatives.

6.3 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.

## **7.0 REPRESENTATIONS**

7.1 The owners/occupiers of the following addresses have made representations:

- 52 Mill End Road

7.2 The representations can be summarised as follows:

- Intensification of use;
- Traffic;
- Noise levels.

## **8.0 ASSESSMENT**

8.1 From the consultation responses and representations received and from my inspection of the site and the surroundings, I consider that the main issues are:

1. Principle of development
2. Context of site, design and external spaces
3. Residential amenity
4. Refuse arrangements
5. Highway safety
6. Car and cycle parking
7. Third party representations

### **Principle of Development**

8.2 Policy 5/7 states that HMOs will be permitted subject to the following criteria:

1. Impact on the residential amenity of the local area;
2. The suitability of the building or site; and
3. Proximity of bus stops and pedestrian and cycle routes, shops and other local services.

8.3 I have considered these issues below and reached the conclusion that the proposed change of use is acceptable in principle.

#### **a) Impact on residential amenity of local area:**



- 8.4 The application site consists of a detached chalet bungalow with single storey outbuilding/store.
- 8.5 The proposed use of the dwelling as a HMO would not, in my view, have any significant adverse impact on the residential amenity of the adjoining residents over and above that which would normally be expected by a dwelling of this size. Furthermore, it is important to note that if the proposal was for 6 bed HMO then planning permission would not be required as this would be considered as permitted development. Therefore, as the proposal is for a 7 bed HMO the additional one bedroom would not be materially different such that it would warrant refusing the application.
- 8.6 In terms of noise disturbance, whilst I accept that there is likely to be some level of increased noise as a result of increased activity, I am of the view that the proposal would not raise noise levels significantly enough to warrant the application to be refused. This is a detached property with a substantial garden.
- 8.7 In my opinion the proposal adequately respects the residential amenity of its neighbours and the constraints of the site and I consider that it is compliant with Cambridge Local Plan (2006) policies 3/4, 3/7 and 5/7.

**b) The suitability of the building or site;**

- 8.8 The dwelling has been extended with a small lean-to element on the rear elevation. Other than this the property has not been significantly altered. The dwelling and outbuilding appear to have sufficient space to accommodate additional bedrooms as part of the proposed HMO use.
- 8.9 In terms of outdoor space, there is sufficient amenity space to the rear to provide a private communal area. Future residents would have access to this outdoor space.
- 8.10 In terms of car parking, there is sufficient off street car parking for at least three or four vehicles. Mill End Road is an unrestricted highway and there is provision to park on street without restriction. There is no requirement to provide car parking for the proposed use. The Local Plan sets maximum level of car parking permitted under the City Council's

Standards therefore there is no minimum number of spaces which need to be provided.

- 8.11 I am satisfied that due to the proximity of the site to public transport links and distance from the nearest 'District and Local Centre' in terms of walking and cycling, additional car parking would not be necessary.
- 8.12 In these terms, therefore, I am satisfied that the building and site area is sufficient to accommodate the proposed change of use to an HMO.

**c) The proximity of bus stops and pedestrian and cycle routes, shops**

- 8.13 The site is located within walking distance of bus stops on High Street and within reasonable cycling distance of the City Centre and railway station.
- 8.14 The 'District and Local Centre' has a range of shops and services which is located on High Street and is within distance of the site.
- 8.15 No specific details have been provided for the bin and cycle storage provision. However, there is storage space within the outbuilding to accommodate this. Nevertheless, I have recommended a condition requiring details of the cycle and bin store to be submitted for approval.
- 8.16 In my opinion, the principle of the development is acceptable and in accordance with policies 5/1 and 5/7 of the adopted Local Plan.

**Context of site, design and external spaces**

- 8.17 The proposal does not include any external alterations to the dwelling or outbuilding.
- 8.18 I am of the view that the proposal change of use would be acceptable in this context and would not give rise to any significantly detrimental impacts on the character of the area.
- 8.19 In my opinion the proposal is compliant with Cambridge Local Plan (2006) policies 3/4, 3/7, 3/11, 3/12.

## **Refuse arrangements**

- 8.20 No information has been put forward on how the refuse provision will be managed. I have therefore recommended a bin storage condition.

## **Highway Safety**

- 8.21 The proposal does not include any alterations that would affect highway safety.
- 8.22 In my opinion the proposal is compliant with Cambridge Local Plan (2006) policy 8/2.

## **Car and cycle parking**

- 8.23 There is enough space in front and to the side of the dwelling to accommodate at least 3 vehicles, possibly more if necessary. However, given the location of the site in terms of its proximity to public transport links and shops and services, I do not consider it necessary for the applicant to provide any additional car parking.
- 8.24 The proposal does not include any details for secured and enclosed cycle parking provision. However, there appears to be enough spaces within the outbuilding to accommodate this and possibly by the installation of a enclosed structure in the rear garden. I have therefore recommended a condition for secured cycle parking details to be provided.
- 8.25 In my opinion the proposal is compliant with Cambridge Local Plan (2006) policies 8/6 and 8/10.

## **Third Party Representations**

- 8.26 Some of the concerns raised by the objector have been covered in the relevant sections of the main report. I set out below my response to the concerns I have not addressed.
- 8.27 In terms of noise from the site, it would be difficult to argue the proposed use would give rise to a significant increase in noise levels to such a degree that it would harm the residential amenity of the adjoining neighbours. The dwelling is detached with substantial garden and the proposed use would not be

materially different to a 6 bed HMO which would be considered as permitted development.

## **9.0 CONCLUSION**

- 9.1 The proposed change of use from a five bedroom dwellinghouse (C3 use) to a seven bedroom Housing of Multiple Occupancy (Sui-Generis use) is considered to be acceptable in this context. The proposal does not include any external alterations to the elevations of existing dwelling or outbuilding.
- 9.2 The change of use would increase the number of bedrooms from five to seven. I do not consider this would be materially to cause an unacceptable intensification of the building. Therefore, I do not consider the proposal would have a significant adverse impact on the residential amenity of the adjoining neighbours such that it would warrant refusal.
- 9.3 In these terms, therefore, the proposed change of use is considered to comply with policies 3/4 and 5/7 of the adopted Local Plan.

## **10.0 RECOMMENDATION**

### **FOR RECOMMENDATIONS OF APPROVAL**

#### **APPROVE subject to the following conditions**

1. 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 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. No development shall commence until details of facilities for the covered, secured parking of bicycles for use in connection with the development hereby permitted shall be submitted to and approved by the local planning authority in writing. The approved facilities shall be provided in accordance with the approved details before use of the development commences.

Reason: To ensure appropriate provision for the secure storage of bicycles. (Cambridge Local Plan 2006 policy 8/6)

4. Prior to the commencement of the use hereby permitted, the on-site storage facilities for residential waste, including waste for recycling and the arrangements for the disposal of waste detailed on the approved plans shall be provided. The approved arrangements shall be retained thereafter unless alternative arrangements are agreed in writing by the local planning authority.

Reason: To protect the amenities of nearby residents/occupiers and in the interests of visual amenity (in accordance with policies 4/13 and 6/10 of the Cambridge Local Plan (2006))

5. The outbuilding shall be used solely in conjunction with and ancillary to 68 Mill End Road and shall not be used, occupied or let as a separate residential unit.

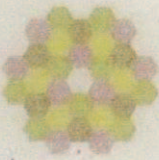
Reason: To protect the amenity of the adjoining residential properties and to avoid the creation of a separate planning unit. (Cambridge Local Plan 2006 policies 3/4 and 4/13)

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Land Registry  
Official copy of  
title plan

Title number CB321122  
Ordnance Survey map reference TL4856NE  
Scale 1:1250  
Administrative area Cambridgeshire: Cambridge



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This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground. See Land Registry Public Guide 7 - Title Plans.

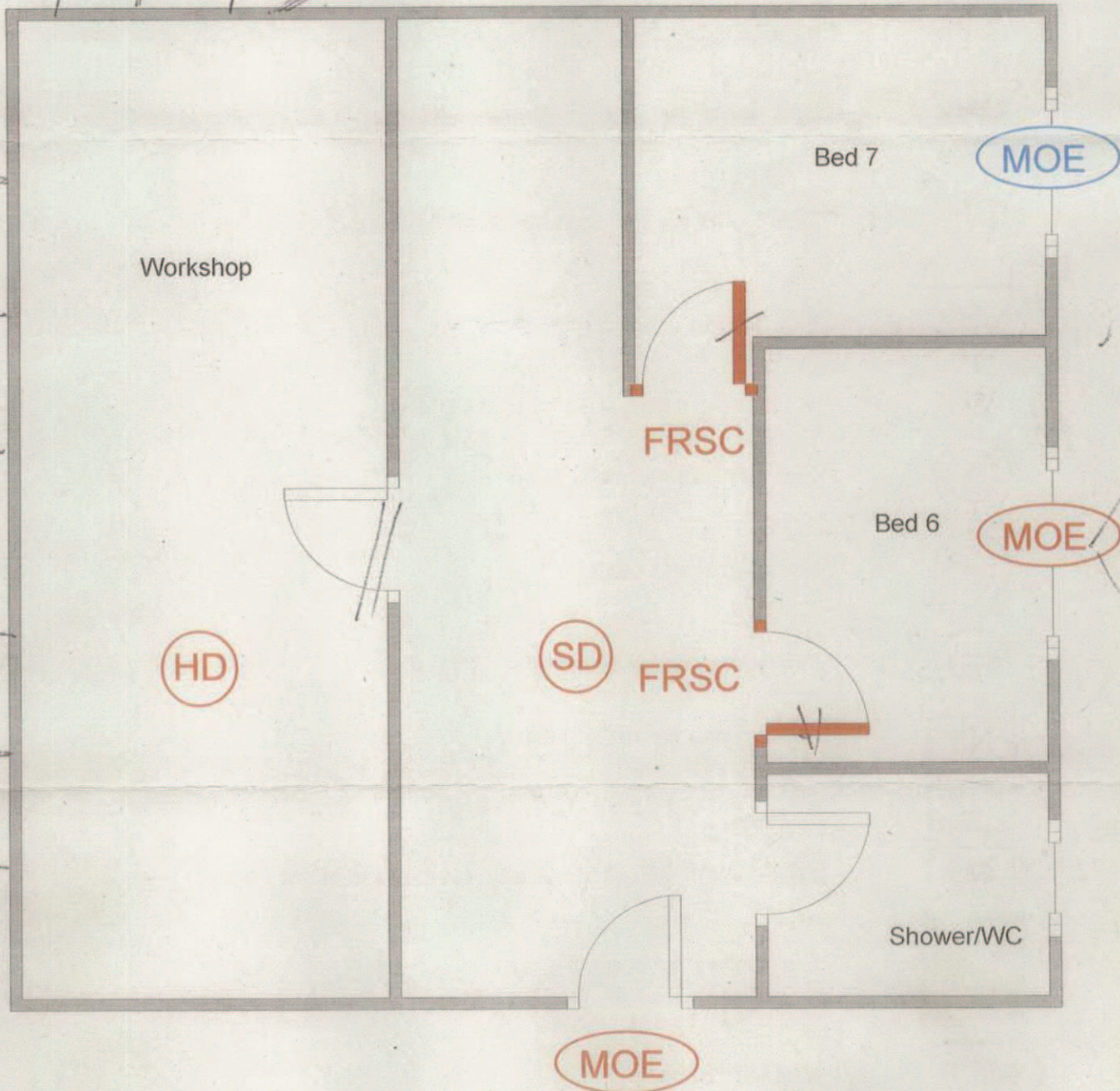
This title is dealt with by Land Registry, Peterborough Office.



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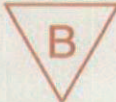




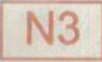
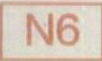





68 Mill End Rd, Cambridge, CB1 9JP  
Annexe  
WK/201254577



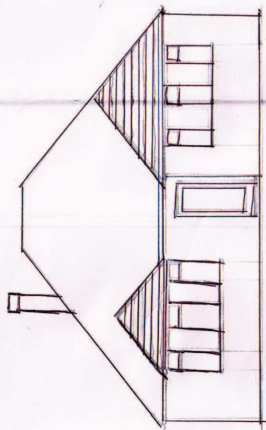


## Key To Symbols

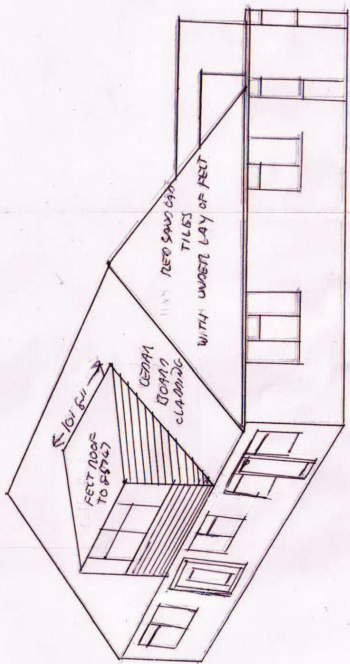
	½ Hour fire resistant construction
	½ Hour fire resistant door with combined intumescent strip & smoke seal
<b>SC</b>	Self-closing device (Gib-closer or Gibraltar type not permitted)
	13A Rated fire extinguisher on wall mount (traditionally water type)
	34B Rated fire extinguisher on wall mount (traditionally dry powder type)
	Fire blanket – wall mounted
<b>VP</b>	½ Hour fire rated glazed vision panel
	Fire alarm manual call-point
	Fire alarm heat detector
	Fire alarm smoke detector
	Fire action / fire routine sign (adj call-points)
	FIRE DOOR KEEP LOCKED SHUT sign (outer face of fire door)
	FIRE DOOR KEEP SHUT sign (both sides of fire door)
	Emergency lighting coverage
	Means of escape
	Existing fire precautions in blue



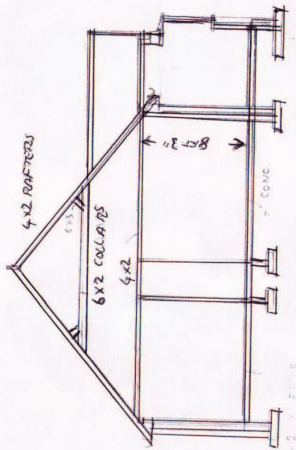
PROPOSED BUNGALOW for Mr J M SCOTT  
 at  
 No 68 MILL END ROAD CHERRY HINTON CAMBRIDGE.



FRONT ELEVATION

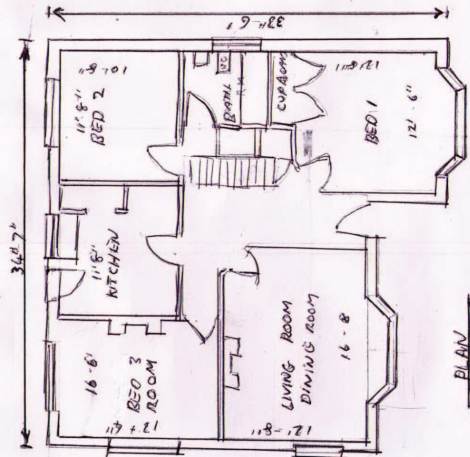


SIDE ELEVATION

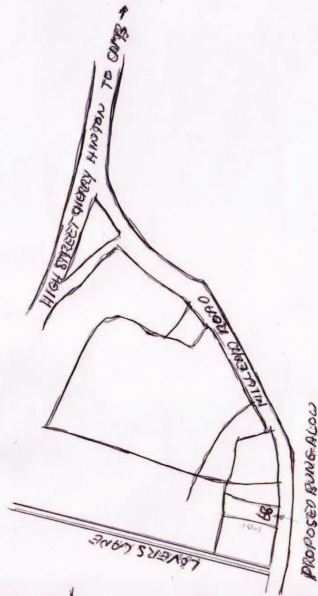
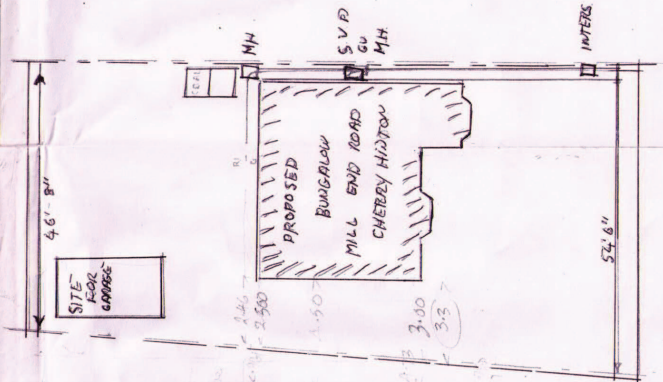


SECTION

11" CAVITY WALLS.  
 IRON NASTIES



PLAN



DESIGNED AND PREPARED BY  
 G. L. SANWELL. 6 NOV 1954.

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CAMBRIDGE CITY COUNCIL

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REPORT OF: Head of Planning Services

TO: South Area Committee

23/04/2014

WARDS: Queen Ediths

## **PLANNING ENFORCEMENT CONTROL ENFORCEMENT NOTICE REPORT**

### **Breach of planning conditions and material change of use of 27 Babraham Road, Cambridge**

**Update following outcome of Appeal decision against the Council's  
decision to refuse to grant a Certificate of Lawful Use or Development  
(application reference 12/1438/CLUED)**

---

#### **1 INTRODUCTION**

- 1.1 In March 2013 a report was brought before this Committee which recommended that enforcement action be authorised for non-compliance with conditions and a material change of use at 27 Babraham Road (see Appendix A for site plan). The recommendation was accepted but the Committee determined that the Enforcement Notices be issued following the conclusion of the pre-existing appeal against the Council's refusal to grant a certificate of lawful use and development. A copy of the report is attached at Appendix B.
- 1.2 The appeal has been allowed and the outcome impacts on the enforcement action that has been authorised by Committee. In summary, the appeal allows the site to be used for the storage of up to three ice cream vans in the garage that was approved under planning reference C/97/0695/FP, deliveries to be accepted in connection with the ice cream business and the stationing of a refrigeration unit. The purpose of this report is to provide an update to the Committee. Each Enforcement Notice is reviewed and the Committee is asked to authorise either that the Notice not be issued or that the Notice be issued as previously agreed or as amended.

- 1.3 There is a further report on this Agenda which requests authorisation for the service of a further Enforcement Notice for the unauthorised change of use of the garage extension to storage of ice cream vans.

## 2. **BACKGROUND**

- 2.1 In March 2013 a report was presented to South Area Committee which sought delegated authority to serve five Enforcement Notices to address the breach of four planning conditions attached to the planning permission (reference C/97/0695) at 27 Babraham Road and for the unauthorised change of use of the forecourt of the C3 Dwellinghouse to B1 business use. At the time of that report an Appeal was outstanding in respect of an application for a Certificate of Lawful Use or Development. The Appeal was subsequently allowed and this has altered the position with regard to which activities amount to a breach of planning control.

### Planning History of 27 Babraham Road

- 2.2 In April 1993 planning permission was granted for a detached three-bay garage in the front forecourt of 27 Babraham Road. In 1997 permission was granted to allow 27 Babraham Road to be used as a dwelling house and for the storage of two ice cream vans. This was subject to the following conditions:
1. The number of ice-cream vans stored at the premises shall not exceed two vehicles.  
Reason: To protect the residential amenity of adjacent residential occupiers.
  2. The ice-cream vans, when not in use, shall be stored within the existing garage at all times with the doors closed.  
Reason: To protect the visual amenity of the area.
  3. There shall be no deliveries to the premises associated with the ice-cream business.  
Reason: To protect the amenity of adjacent residential properties.
  4. The garage shall be used for the parking of no more than two ice-cream vans and the parking of domestic vehicles only and for no other purpose without express consent to be given in writing by the local planning authority.  
Reason: To protect the residential amenity of adjacent residential properties.



- 2.3 In 2001 an application for a 2 bay car port extension to the 3 bay garage was permitted. There were no conditions regulating the use of the car port but an informative stated that the car port may not be used for the storage of commercial vehicles without the express permission of the local planning authority.
- 2.4 In August 2012, following a planning enforcement inquiry into allegations that the conditions attached to planning permission reference C/97/0695/FP were not being complied with, an application was made to vary the conditions attached to the permission for the garage. The application sought the following variations to conditions:
- Condition 1 to include a maximum of 4 ice cream vans
  - Condition 2 so that vans not in use shall be stored in the existing garage but not behind closed doors
  - Condition 3 to allow deliveries to the site
  - Condition 4 to allow the parking of 4 ice cream vans within the existing garage block on planning approval C/97/0695/FP

The application was withdrawn

- 2.5 In November 2012 an application was submitted for a Certificate of Lawful Use or Development. This sought to confirm the lawfulness of the following:
- The storage of four ice cream vans
  - The stationing of a refrigerated storage unit
  - Acceptance of deliveries in connection with an ice cream business
  - Mixed C3/B1 use

The application was refused under delegated powers on the basis that the applicant had not demonstrated on a balance of probabilities that the use has continued for 10 years.

- 2.6 In March 2013 an Appeal was submitted in response to the Council's decision. This was heard by way of an Informal Hearing in June 2013 and the Inspector allowed the appeal.

The Inspectors Decision and the terms of the Certificate of Lawful Use or Development ('The Certificate')

- 2.7 A copy of the Inspector's Decision letter/Certificate of Lawfulness is attached at Appendix C. The Inspector allowed the appeal, decided that the time limit for enforcement had expired and certified that the

following uses were lawful within the meaning of section 191(2) and (3) of the Town and Country Planning Act 1990:

- The storage of up to three ice cream vans for commercial purposes in the garage referred to in conditions 2 and 4 of planning permission reference C/97/0695/FP and shown hatched on an attached plan but with the garage doors open in breach of conditions 1, 2 and 4 of the 1997 permission. (The plan identifies the original garage only and not the car port extension)
- The acceptance of deliveries in connection with the ice cream business in breach of condition 3 of the 1997 permission
- The stationing of a refrigerated storage unit, of a size equivalent to or smaller than the unit stationed on the site in November 2012 located between the dwelling and the garage as extended.

#### Planning Status of 27 Babraham Road Note

- 2.8 It is the view of officers that the Inspectors decision is clear; however for the avoidance of doubt a Note was prepared which sets out the Council's position regarding the Planning Status of 27 Babraham Road. A copy of the Note is attached at Appendix D. A copy of the Note has been sent to the appellant and the neighbours either side of 27 Babraham Road who have raised concerns about the way in which 27 Babraham Road is used.
- 2.9 Following his receipt of the Note the Appellant's Agent sought clarification about the use of the car port extension to the garage and the storage of a single hot potato cart at the premises. This is addressed in the other report relating to 27 Babraham Road on this agenda.
- 2.10 The certificate has confirmed that certain planning uses of the site are lawful but it only relates to those specific uses that were the subject of the application. The planning permission taken with the certificate provides confirmation of the lawful uses of the site. In the opinion of officers neither the use of the car port extension for the storage of ice cream vans nor the storage of the hot potato cart are covered by the planning permission or the certificate.

#### Implications of the Inspector's decision on the draft Enforcement Notices



2.11 The draft Enforcement Notices that were authorised by Committee in March 2013 addressed the following:

- 1 Breach of condition 1 of C/97/0695 (The number of ice cream vans stored at the premises shall not exceed two vehicle)
- 2 Breach of condition 2 of C/97/0695 (The ice cream vans, when not in use, shall be stored within the existing garages at all times with the doors closed)
- 3 Breach of condition 3 of C/97/0695 (There shall be no deliveries to the premises associated with the ice cream business)
- 4 Breach of condition 4 of C/97/0695 (The garage shall be used for the parking of no more than two ice cream vans and the parking of domestic vehicles only and for no other purpose without express consent to be given in writing by the local planning authority)
- 5 The material change of use of the area of the Land marked with green hatching on the attached plan of 27 Babraham Road Cambridge to a B1 business use.

I have considered the implications of the Inspector's decision on each of the Notices.

1. *Breach of condition 1 of C/97/0695 (The number of ice cream vans stored at the premises shall not exceed two vehicles)*

2.12 The storage of up to three ice cream vans is lawful. Officers visited the site on 1 April 2014 and observed three ice cream vans on site. There is no breach of condition 1 and no justification for issuing an enforcement notice.

2. *Breach of condition 2 of C/97/0695 (The ice cream vans, when not in use, shall be stored within the existing garages at all times with the doors closed)*

2.13 The storage of ice cream vans in the garage with the doors open is lawful. On 1 April 2014 officers observed that two ice cream vans were being stored in the car port extension when not in use and a third ice cream van was on the forecourt. This is in breach of condition 2 as modified by the certificate. Officers recommend that

an Enforcement Notice be served to address the ice cream vans stored on the forecourt.

3. *Breach of condition 3 of C/97/0695 (There shall be no deliveries to the premises associated with the ice cream business)*

2.14 Deliveries in connection with the ice cream business are lawful; there is no breach of condition 3 and no justification for issuing an enforcement notice.

4. *Breach of condition 4 of C/97/0695 (The garage shall be used for the parking of no more than two ice cream vans and the parking of domestic vehicles only and for no other purpose without express consent to be given in writing by the local planning authority)*

2.15 The storage of up to three ice cream vans in the garage is lawful; there is no breach of condition 4 and no justification for issuing an enforcement notice.

5. *The material change of use of the area of the Land marked with green hatching on the attached plan of 27 Babraham Road Cambridge to a B1 business use*

2.16 The Inspector noted that the appellant only sought to establish a mixed use which includes a commercial element and that this element is strictly controlled and limited by condition, the appellant did not seek to establish a more general and extensive use.

2.17 During the site visit the ice cream machines within the vans were being cleaned. This involves flushing out the machine and requires the vehicle engine to be switched on. This activity takes around 10-15 minutes and is carried out daily on each of the three ice cream vans. Three members of staff are employed who are responsible for each of the ice cream vans. The operator also advised that he uses the forecourt for washing the exterior of the ice cream vans and for changing the oil/filter/belt when necessary.

2.18 In the opinion of officers these activities represent ancillary uses associated with the use of the garage approved under reference C/07/0695/FP for storage of ice cream vans. These uses do not amount to a more extensive B1 Business use than that which is permitted by planning permission C/97/0695/FP as modified by the

certificate. On the basis of the way in which the premises are currently being used there is no justification for issuing an enforcement notice in relation to change of use to B1 business use.

### 3 CONSULTATIONS

- 3.1 I have consulted with the Council's legal officers and taken their advice in drafting this report.

### 4 OPTIONS

- 4.1 There are three options:

#### Option 1

Agree the recommendation that the Enforcement Notices in respect of breaches of conditions 1, 3 and 4 not be served. The effect of the certificate is to make to the current compliance with the conditions as amended by the certificate, lawful

Agree the recommendation that the Enforcement Notices in respect of the breach of condition 2 be amended to remove reference to doors remaining closed and then served.

#### Option 2

That none of the authorised Enforcement Notices be served.

I would not recommend Option 2 because unless strictly controlled the business use has adverse impacts on the residential amenities of occupiers of neighbouring house. Part of this control is the storage of the ice cream vans in the garage when not in use.

- 4.2 In assessing these options and recommending that enforcement action be pursued to secure compliance with condition 2 I have given consideration to the Human Rights Act 2000 and to the Equalities Act 2010, I have also noted Article 1 Protocol 1 (protection of property), Article 6 (a right to a fair hearing within a reasonable time), Article 8 (right to respect for private family life) and Article 14 (prohibition of discrimination) as being relevant. I consider that the service of an enforcement notice with a reasonable period for compliance would be lawful, fair, proportionate, non-discriminatory, and necessary in the general public interest to achieve the objective of upholding national and local planning policies and that these considerations do not outweigh the reasons for proceeding with planning enforcement.

- 4.3 An Enforcement Notice carries with it a right of appeal to the Planning Inspectorate and the Inspectorate have the power to vary the Notice to amend the steps to comply.

## 5 CONCLUSIONS

- 5.1 In my view it is appropriate to review the authorisation for enforcement action in the light of the outcome of the appeal against refusal of the Certificate of Lawful Use or Development. I have recommended that the breach of condition 2 of permission reference C/97/0695/FP as modified by the certificate is pursued because the Certificate does not permit the following activities which are taking place on the site: the storage of ice cream vans on the forecourt and in the car port garage extension.
- 5.2 It is no longer necessary to serve the other four enforcement notices that relate to breaches to conditions 1, 3 and 4 of planning permission reference C/97/0695/FP as modified by the certificate and to change of use to B1 business use.

## 6 RECOMMENDATIONS

- 6.1 That the following actions be agreed in respect of each of the five Enforcement Notices authorised by Committee in March 2013:

- 1 Breach of condition 1 of C/97/0695 (The number of ice cream vans stored at the premises shall not exceed two vehicle)

Enforcement notice not to be issued.

- 2 Breach of condition 2 of C/97/0695 (The ice cream vans, when not in use, shall be stored within the existing garages at all times with the doors closed)

Enforcement notice to be served but amended to remove reference to 'with the doors closed'.

- 3 Breach of condition 3 of C/97/0695 (There shall be no deliveries to the premises associated with the ice cream business)

Enforcement notice not to be issued.

- 4 Breach of condition 4 of C/97/0695 (The garage shall be used for the parking of no more than two ice cream vans and the parking of

domestic vehicles only and for no other purpose without express consent to be given in writing by the local planning authority)

Enforcement notice not to be issued.

- 5 The material change of use of the area of the Land marked with green hatching on the attached plan of 27 Babraham Road Cambridge to a B1 business use.

Enforcement notice not to be issued.

## 7 IMPLICATIONS

- (a) **Financial Implications - None**
- (b) **Staffing Implications - None**
- (c) **Equal Opportunities Implications - None**
- (d) **Environmental Implications – None**
- (e) **Community Safety - None**

**BACKGROUND PAPERS:** The following are the background papers that were used in the preparation of this report:

Planning decision notices refs. C/01/0558, 12/1107/S73, 12/1438/CLUED

The author and contact officer for queries on the report is Sarah Dyer on extension 7153.

Report file: N:\Development Control\Planning\Enforcement\Committee reports\27 Babraham Road update SAC 23.04.14.doc

Date originated: 10 April 2014

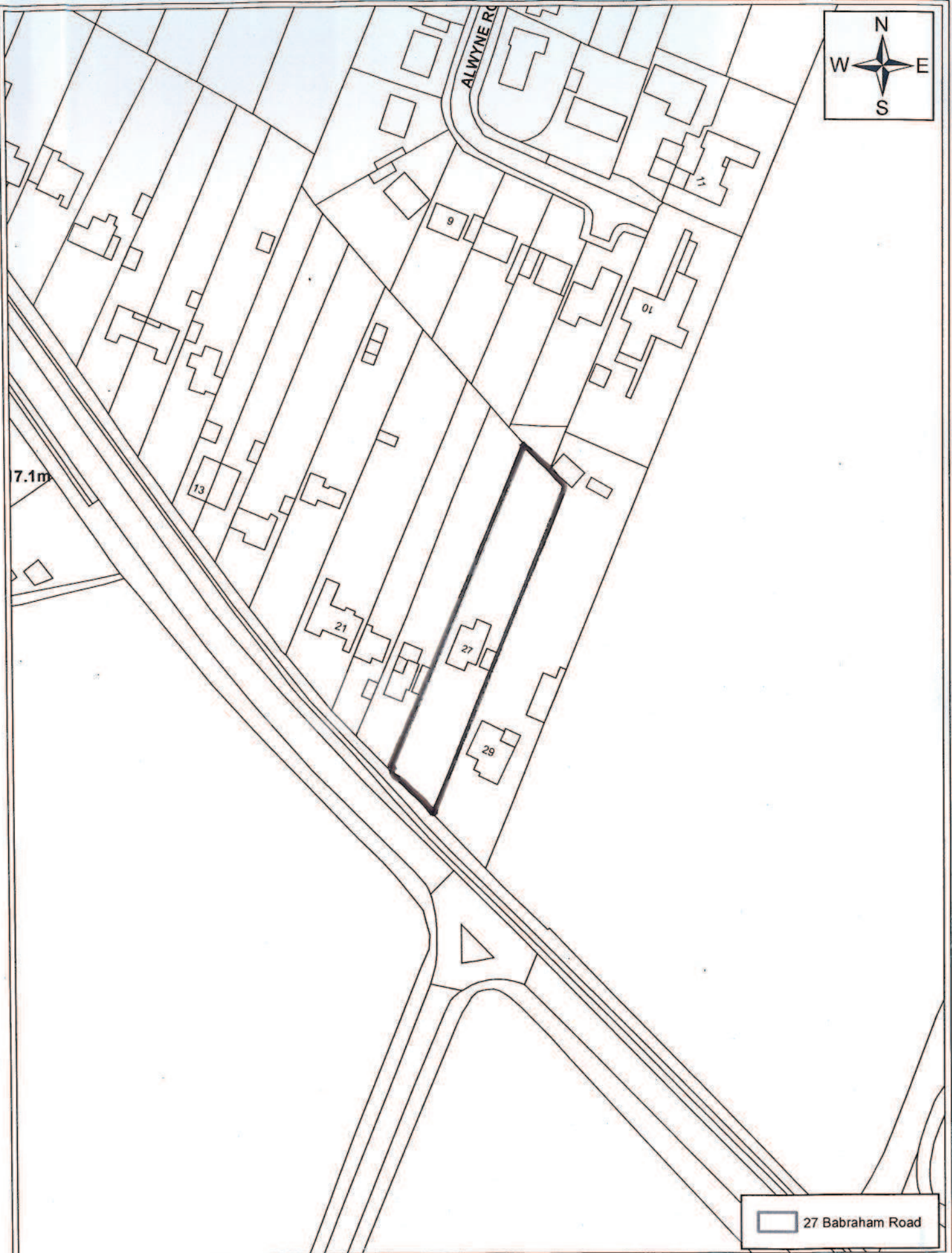
Date of last revision: 10 April 2014


## APPENDICES

- Appendix A Site location plan
- Appendix B Report to SAC of 7 March 2013
- Appendix C Inspectors Decision (12/1438/CLUED)
- Appendix D Note on the Planning Status of 27 Babraham Road

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 27 Babraham Road

# 27 Babraham Road



Date: 12 February 2013  
Produced by: GIS Team  
Section/Department: Information Systems, Environment Dept  
Scale: 1:1,250 @ A4



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# CAMBRIDGE CITY COUNCIL

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REPORT OF: Head of Planning Services

TO: South Area Committee

DATE: 07/03/2013

WARD: Queen Ediths

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## **PLANNING ENFORCEMENT CONTROL ENFORCEMENT NOTICE REPORT**

### **Breach of planning conditions and material change of use of 27 Babraham Road, Cambridge**

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#### **1. INTRODUCTION**

This report seeks delegated authority to serve five Enforcement Notices to address the breach of four planning conditions attached to the planning permission (reference C/97/0695) at 27 Babraham Road and for the unauthorised change of use of the forecourt of the C3 Dwellinghouse to B1 business use.

Site: 27 Babraham Road, Cambridge.

See Appendix A for site plan

Breach: Breach of conditions and unauthorised change of use

#### **2. PLANNING HISTORY**

##### **Reference Description**

<b>Reference</b>	<b>Description</b>	
C/93/0133	Garage in front garden (amended by letter dated 26.03.93 and 01.02.95 with accompanying plans)	Approved with conditions

C/97/0695	The use of the land and buildings at 27 Babraham Road as a dwelling house and for the storage of two ice cream vans used for commercial purposes	Approved with conditions
C/01/0558	Erection of 2bay car port extension to existing garage.	Approved with conditions
05/0603/FUL	Single storey side extension to dwellinghouse with conservatory to rear. Single storey front extension to garage.	Refused
12/1107/S73	Application to vary condition 1 to include a maximum of 4 ice cream vans, condition 2 so that vans not in use shall be stored in the existing garage but not behind closed doors, condition 3 to allow deliveries to the site and condition 4 to allow the parking of 4 ice cream vans within the existing garage block on planning approval C/97/0695/FP.	Withdrawn
12/1438/CLUED	Application for a Section 191 for the storage of four ice cream vans, the stationing of a refrigerated storage unit, acceptance of deliveries in connection with the ice cream business and the mixed use (C3/B1) of the property.	Certificate Not Granted

### 3. BACKGROUND

3.1 Planning permission C/97/0695 approved the use of land and buildings at 27 Babraham Road as a dwelling house and for the storage of two ice-cream vans used for commercial purposes, with the following conditions:

1. The number of ice-cream vans stored at the premises shall not exceed two vehicles.

Reason: To protect the residential amenity of adjacent residential occupiers.

2. The ice-cream vans, when not in use, shall be stored within the existing garages at all times with the doors closed.  
Reason: To protect the visual amenity of the area.
  3. There shall be no deliveries to the premises associated with the ice-cream business.  
Reason: To protect the amenity of adjacent residential properties.
  4. The garage shall be used for the parking of no more than two ice-cream vans and the parking of domestic vehicles only and for no other purpose without express consent to be given in writing by the local planning authority.  
Reason: To protect the residential amenity of adjacent residential properties.
- 3.2 The Planning Enforcement Service has received complaints that each of the four conditions is not being complied with and that the forecourt of the dwellinghouse is being used for B1 business use.
- 3.3 An application for a Certificate of Lawfulness was made in November 2012. The applicant failed to provide sufficient evidence of breach of the conditions and that the change of use of the site had been continuous for ten years preceding the application. Notification that the Certificate was not granted was given to the applicant on 7<sup>th</sup> January 2013. The application was determined under delegated powers.
- 3.4 An appeal against the refusal to grant the Certificate has been lodged with the Planning Inspectorate. The Notices would only be served if the appeal against the refusal to grant a Certificate of Lawfulness is dismissed.
- 3.5 A Planning Contravention Notice was served on 29<sup>th</sup> January 2012.
- 3.6 The response to the Planning Contravention Notice confirms that the breaches of planning control are ongoing. The owner of 27 Babraham Road, Cambridge has advised that he intends to submit a further application for a Certificate of Lawfulness which will include additional evidence. At the time of writing this report a further application has not been received. An update will be provided on the amendment sheet. Given the impact of the unauthorised use on residential amenity, officers are of the view that it is not necessary to delay seeking authority for enforcement action pending the submission of a further application.

#### **4. LEGAL, POLICY AND OTHER MATERIAL CONSIDERATIONS:**

4.1 The material change of use of the forecourt of 27 Babraham Road, Cambridge to B1 business use requires planning permission.

#### **4.2 National Planning Policy Framework states:**

‘Para 207. Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so.’

#### **4.3 Cambridge Local Plan policies**

The following policies from the Cambridge Local Plan would apply to the determination of an application of change of use of the forecourt of 27 Babraham Road to B1 business use:

3/4 Responding to context

3/10 Sub-division of existing plots

4/13 Pollution and Amenity

7/2 Selective Management of the Economy

The unauthorised development in question is contrary to development plan policies detailed above, because the change of use is detrimental to the residential amenity of neighbouring occupiers and poorly integrated into the locality.

#### **4.4 Planning Investigation Service Enforcement Policy 2000 Objectives:**

- To promote compliance with planning requirements.
- To remedy the undesirable effects of unauthorised development.
- To bring unauthorised activity under control to maintain the credibility and achieve the purpose, of the planning system.

- To strike an acceptable balance between protecting the amenity of the citizens of Cambridge and other interests of acknowledged importance, and allowing development to take place.
- To provide a service that will pursue pro-active initiatives that would improve the environment and built heritage, safeguard the amenities of the area and support the policies of the development plan.

A copy of the policy can be found at:

<http://www.cambridge.gov.uk/public/pdfs/PIS-enforcement-policy.pdf>

4.5 Enforcement is a discretionary power. The Committee should take into account the planning history and the other relevant facts set out in this report. In order to issue any Enforcement Notice there must be sound planning reasons to justify taking such action. The unauthorised development, namely the change of use of the forecourt to a commercial use and the breach of all four conditions of C/97/0695, is ongoing.

## 5. RECOMMENDATIONS

- 5.1 (i) To authorise five enforcement notices under S172 of the Town and Country Planning Act 1990 (as amended) in respect of the breach of all four conditions of C/97/0695 and the material change of use of 27 Babraham Road, specifying the steps to comply, the period for compliance and the statement of reasons set out in the draft notices in appendix B.
- (ii) to authorise the Head of Planning (after consultation with the Head of Legal Services) to draft and issue the enforcement notices.
- (iii) to delegate authority to the Head of Planning (after consultation with the Head of Legal Services) to exercise the Council's powers to take further action in the event of non-compliance with the enforcement notices.

### 5.2 Statement of Reasons

It appears to the Council that the breach of planning control has occurred within the last ten years. The applicant has undertaken development (in the form of a change of use and non compliance with planning conditions) without the benefit of planning permission.

The intensification of the business use has resulted in a change of use which has given rise to noise and disturbance to neighbours resulting in an unacceptably adverse impact upon their amenities.

The statement of reasons for each of the five enforcement notices are contained in point 4 of the draft Notices which can be found in appendix B.

Mindful of the advice the development plan policies mentioned above and to all other material considerations, the Council consider it expedient to serve the enforcement notices in order to remedy the clear breach of planning control.

- 5.3 Consideration has been given to Human Rights including Article 1 Protocol 1 (protection of property), Article 6 (a right to a fair hearing within a reasonable time), Article 8 (right to respect for private family life) and Article 14 (prohibition of discrimination). It is considered that, if a certificate of lawfulness were refused, enforcement proceedings would be lawful, fair, non-discriminatory, and necessary in the general public interest to achieve the objective of upholding national and local planning policies, which seek to restrict such forms or new residential development. The time for compliance will be set as to allow a reasonable period for compliance.

## **6. IMPLICATIONS**

- (a) **Financial Implications** - None
- (b) **Staffing Implications** - None
- (c) **Equal Opportunities Implications** - None
- (d) **Environmental Implications** - None
- (e) **Community Safety** - None

## **BACKGROUND PAPERS:**

Delegated officer report relating to application reference 12/1438/CLUED

## **APPENDICES**

- Appendix A Site plan
- Appendix B Five draft Enforcement Notices



The author and contact officer for queries on the report is Deborah Jeakins on extension 7163.

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Date originated: 17 Jan 2013

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## Appeal Decision

Inquiry held on 19 and 20 June 2013

Site visit made on 19 June 2013

**by John Murray LLB, Dip.Plan.Env, DMS, Solicitor**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 23 July 2013**

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**Appeal Ref: APP/Q0505/X/13/2193066**

**27 Babraham Road, Cambridge, CB2 0RB**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr Toni Coppolaro against the decision of Cambridge City Council.
- The application Ref 12/1438/CLEUD, dated 8 November 2012, was refused by notice dated 7 January 2013.
- The application was made under section 191(1)(a) and (c) of the Town and Country Planning Act 1990 as amended.
- On the face of the application, the use for which a certificate of lawful use or development is sought is:
  - (i) The storage of four ice cream vans at the property;
  - (ii) The stationing of a refrigerated storage unit at the property;
  - (iii) The acceptance of deliveries in connection with the ice cream business at the property;
  - (iv) The mixed use (C3/B1) of the property.

**Summary of Decision: The appeal is allowed and a certificate of lawful use or development is issued, in the terms set out below in the Decision.**

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### Application for costs

1. At the Inquiry an application for costs was made by Mr Toni Coppolaro against Cambridge City Council. This application is the subject of a separate Decision.

### Procedural and background matters

2. All evidence at the Inquiry was taken on oath.
3. On 28 April 1993, planning permission Ref C/0133/93 was granted for the erection of a detached domestic garage in the front garden of the appeal property. No conditions were imposed to restrict the use of the garage. On 20 August 1997 planning permission Ref C/97/0695/FP (the 1997 permission) was granted for "the use of the land and buildings at 27 Babraham Road as a dwelling house and for the storage of two ice cream vans used for commercial purposes. That permission was subject to 4 conditions, as follows:
  - (1) The number of ice cream vans stored at the premises shall not exceed two vehicles;
  - (2) The ice cream vans, when not in use, shall be stored within the existing garage at all times with the doors closed;

- (3) There shall be no deliveries to the premises associated with the ice cream business;
  - (4) The garage shall be used for the parking of no more than two ice cream vans and the parking of domestic vehicles only and for no other purpose without express consent in writing to be given by the local planning authority.
4. On 13 July 2001 the Council granted planning permission Ref C/01/0558/FP (the 2001 permission) for the erection of a 2 bay car port extension to the existing 3 bay garage, which was granted permission under Ref C/0133/93. No conditions were imposed regulating the use of that extension.
  5. As set out in the heading of this decision, the LDC application sought to establish, among other things, that the "mixed use (C3/B1) of the property" was lawful, as at the date of the application. However, as mixed uses do not fall within any particular use class<sup>1</sup> the parties agreed that any LDC should not refer to use classes.
  6. Although the Council initially took a different view, at the Inquiry, the parties agreed that the 1997 permission authorised a mixed use of No 27 Babraham Road, which comprises a single planning unit, albeit that the commercial element of the mixed use was strictly limited and controlled by the conditions set out above. Notwithstanding the terms of part (iv) of the LDC application, as set out in the heading, the appellant does not seek to argue that there is a more general and extensive lawful business of the type described in Class B1. The appellant merely asks for an LDC in relation to a mixed use comprising the uses described in the 1997 permission, without complying with the conditions, along with use for the stationing of a refrigerated storage unit. Some of the evidence adduced by the Council was aimed at demonstrating that there was a material intensification of the business use within the 10 years up to the LDC application. However, in closing, the Council accepted that, as the appellant is not seeking to establish that a more general and extensive business use has become lawful, it is not necessary to pursue the intensification argument.

### **Main Issue**

7. I must determine whether the Council's refusal of an LDC was well founded. Having regard to the background set out above, the main issue is whether the appellant has proved on the balance of probability that the use of the property as a dwellinghouse and: (i) for the storage of up to 4 ice cream vans for commercial purposes, in breach of conditions on the 1997 permission; (ii) for the acceptance of deliveries in connection with the ice cream business, in breach of conditions on the 1997 permission; and (iii) for the stationing of a refrigerated storage unit, all commenced on or before 8 November 2002 and continued for 10 years after commencement. In relation to (i) and (ii), I must also determine whether the appellant has proved on the balance of probability that the relevant conditions were still being breached as described when the LDC application was submitted on 8 November 2012<sup>2</sup>.

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<sup>1</sup> *Belmont Riding Centre v Secretary of State for Transport, Local Government and the Regions [2002] EWCA Civ 169.*

<sup>2</sup> To succeed on an LDC application concerning the failure to comply with a condition, the breach must be in existence at the time of the application: *Nicholson v Secretary of State for the Environment and Maldon District Council [1998] JPL 553.*

8. It is not for me to consider whether the matters the subject of this appeal are acceptable in planning terms; I can only determine whether they are lawful by virtue of being immune from enforcement action.

### Reasons

9. As far as the number of ice cream vans is concerned, the appellant acknowledges that, as at the date of the LDC application, he only had 3 stored at the property. The fourth van was sold in February 2012, some 9 months before the application. Although the appellant says he has also stored a jacket potato trailer on the premises from August 2011 to the present date, this cannot contribute to a breach of condition 1 of the 1997 permission, which relates specifically to ice cream vans. At best then, I could only grant an LDC for the storage of up to 3 ice cream vans.
10. Mr and Mrs Coppolaro's evidence was that, in breach of condition 1 of the 1997 permission, between 1997 and the date of the LDC application, there has never been fewer than 3 ice cream vans stored at the appeal property. This was corroborated by the sworn oral testimony of Mr Iodice, the accountant and company secretary of the appellant's business, Toni's Ices.
11. In his proof, Mr Beaumont, of No 29 Babraham Road, said that he had never seen as many as 4 ice cream vans stored at the property during 2012. In oral evidence he said that until 2006 he was abroad on business for much of the time and did not pay much attention to the area. Under cross examination, his evidence on this aspect was a little confusing. At one point he suggested that there had only been 2 ice cream vans for some of the relevant 10 year period, but then he said he regularly saw 3 or 4, but believed some of them may have belonged to other dealers. The basis of that belief was unclear but, in any event Mr Beaumont's letters to the Council dating from 15 June 2001 and sometime after August 2012<sup>3</sup> indicated that conditions on the 1997 permission, including condition 1, had been breached since 1997. I accept that Mr Beaumont's letters were not written in the context of a claim for immunity from enforcement action and he may not have been aware of the consequences of what he was alleging. Nevertheless, Condition 1 would only have been breached if there had been at least 3 ice cream vans stored on the premises. The other next door neighbour, Mr Cinque, said that he had lived at No 25 since 2001. In his proof, Mr Cinque said that there were not 4 ice cream vans stored at the appeal property when he entered in 2001. In oral evidence, he could not really remember how many ice cream vans had been stored during the relevant 10 year period, but he had probably seen 2 or 3. It was apparent from my inspection that Mr Cinque would not have had a view of the garage bays from his own property.
12. I accept that documents provided by the appellant, including registration documents, servicing invoices, receipts and insurance records, do not clearly demonstrate in themselves how many ice cream vans were stored on the property at any one time. This is especially so since the appellant says he often transferred personalised number plates between vehicles. However, neither do the documents indicate that the substance of what Mr and Mrs Coppolaro say about the number of ice cream vans is untrue. The evidence before me indicates that there were probably no fewer than 3 ice cream vans stored on the property in breach of conditions 1 and 4 throughout the period 8

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<sup>3</sup> In response to application reference 12/1107/S73.

November 2002 to 8 November 2012. Indeed there is nothing which clearly contradicts the appellant's evidence.

13. In relation to condition 2 of the 1997 permission, whilst I have heard no evidence that ice cream vans have been consistently stored other than in the garage, the appellant's evidence that the garage doors have not been closed was corroborated by Mr Beaumont's evidence when he said in his proof that the garage doors were "rarely closed". The Council accepts that there is sufficient evidence of this breach of condition 2.
14. There was some debate over whether condition 2 of the 1997 permission would prevent ice cream vans being stored in the 2 bay garage extension constructed pursuant to the 2001 permission. The 2001 permission included an 'informative' indicating that the extension could not be used for the storage of commercial vehicles without express permission, but no condition to that effect. There is therefore nothing in the 2001 permission itself preventing use of the extension to store ice cream vans. I also accept the appellant's submission that, where a building has a permitted use, a permitted extension to that building could normally be used for the same purpose. However, condition 2 of the 1997 permission restricted the use of the property as a whole. When it limited storage of ice cream vans to storage within the "existing garage", that meant the existing 3 bay garage shown on the application plan. The Council would have to consider whether it would be expedient to enforce against the storage of ice cream vans within the 2 bay extension. Nevertheless, as I have not heard evidence of such storage for the relevant 10 year period, I cannot certify storage within that extension as lawful.
15. Turning to the matter of deliveries. Mr Beaumont says that there has been a significant increase in deliveries and activity on the appeal site since around 2006 and M Cinque refers to an increase in activities during the last couple of years. I am conscious that this alleged increase coincides with Mr Beaumont's retirement and consequent ability to observe a lot more and that, on the other hand, Mr Cinque says he is not in a good position to comment on deliveries because he works away from home during the day. In any event, as I have already indicated, the question of whether there has been a material intensification of the use of the property, so as to effect a fundamental change in the character of that use, is not relevant to the issues in this appeal. I merely have to determine whether condition 3 of the 1997 permission has been consistently breached for 10 years up to and including 8 November 2012 by the acceptance of deliveries to the premises associated with the ice cream business in a way that is more than de minimis.
16. The Council accepts that the breach of condition 3 became persistent, continuous and material some time around 2006, when neighbours became demonstrably aware of the deliveries. It also concedes that there may have been some deliveries in the years prior to 2005, but contends it would have been difficult for the Council to have proven that these were any more than occasional.
17. Mr and Mrs Coppolaro state that they have accepted deliveries of ice cream products at the appeal property since 1997. That was corroborated by the oral sworn testimony of Mr Iodice and, in relation to the period from 2000, by that of Mr Tanzarella, a director of Franco's Ices Ltd. With reference to the disputed period between 2002 and 2005/6, Mr Tanzarella said that from late 2000 to

date, his company delivered ice cream products (both ice cream mix and lollies) to the appeal property, 2 or 3 times a month during the summer months and throughout the year. He said that, up to 2007, he generally made the deliveries personally. Statutory declarations from both the managing director and a driver of Greco Brothers Ltd state that they delivered ice cream cones and wafers to the appeal property 2 or 3 times per year throughout the 11 years leading up to May 2013. In a further statutory declaration, the sales manager of the former company, Dairyland Ices (East Anglia) Ltd, said that from September 1997 to November 2005, as well as visiting regularly, he caused deliveries of ice cream products to be made to the appeal property on a weekly basis during the summer months and less often throughout the remainder of the year.

18. Though representatives of Greco Brothers Ltd and Dairyland Ices (East Anglia) Ltd did not attend the Inquiry, there is no evidence that their statutory declarations are untrue. Furthermore, whilst the supporting documentary evidence is a little patchy for the disputed period, the appellant produces copy invoices for ice cream products dating from 29 May 2002, 24 January 2003, 31 January 2003, 15 April 2003, February/April 2004, 13 July 2004 and from February 2005 for nearly every month to mid 2006. I note the Council's concern that this documentary evidence comprises invoices, rather than delivery notes and, whilst the address stated on them is the appeal property, this does not mean the goods were delivered there. The appellant said he did not generally keep delivery notes and, as his accountant, Mr Iodice said it was more important to keep invoices. Furthermore, whilst the Council points to a hand written note on one invoice which says "Del to Windsor Road", this could well suggest that all the other invoices which do not bear such a note relate to deliveries made to the invoice address, namely the appeal property. In addition, Mr Beaumont's letters to the Council dating from 2001 and 2012 also indicate that condition 3 had been breached from 1997.
19. To the extent that some of the appellant's business activities may have been conducted from Windsor Road and/or Winship Road, that is not relevant to whether condition 3 has been breached. The appellant does not need to prove that the appeal property was his sole place of business. Similarly, changes in the structure of the appellant's business, as a result of bankruptcy or otherwise have no bearing on this matter; I need only find that deliveries have been made to the appeal property in connection with the ice cream business throughout the period 8 November 2002 to 8 November 2012 inclusive. The evidence demonstrates that on the balance of probability. Furthermore, as a matter of fact and degree, I am satisfied that the deliveries were more than de minimis and there were not significant periods when deliveries were not being made. In making that judgement, I have taken account of the fact that there will inevitably be fewer deliveries in connection with an ice cream business during the winter months. On the evidence, I am unable to specify the number or frequency of deliveries which is lawful. Granting an LDC without quantifying this might suggest a 'free-for-all' but, in practice, deliveries will be limited by the number of ice cream vans, the size of the site and the size of the refrigerated unit, to which I now turn.
20. I note that the appellant's statutory declaration submitted in support of the LDC application exhibited a photograph of the refrigeration unit as it is now and stated that it had been on the property since 1997. In his proof, the appellant said that the unit in the photograph had only been on site since 2001 and that



it was vehicle mounted at first and then dismantled in 2010, when the vehicle was scrapped. Under cross examination, the appellant said the statement in the statutory declaration was an error. Although he had a refrigeration unit on a trailer from 1997, the one pictured was not present until 2001. The statutory declaration submitted by Mrs Coppolaro did say that the unit was on site from 2001, but dismantled from the vehicle in 2010. The contradiction in the appellant's own evidence is unfortunate, but it would appear to have been an error.

21. Mr Tanzarella said that he delivered to the appeal property from 2000, when and there was a refrigeration unit on a trailer the site in 2000, but this was changed to the current one after a year or so. He said that, when he delivered items he put them in the refrigerated unit. This is consistent with the appellant's evidence at the Inquiry and Mr Tanzarella also confirmed that the unit was dismantled in 2010. It was not put to him that he was mistaken or lying about this aspect. Further statutory declarations from Duncan Bennett (managing director of Bennetts Foods (Worcester) Ltd), Ian Knights (director of Pro-lec Electrical Solutions Ltd, formerly of Ian Knights Electrical Contractors) and Ian Ling (director of ISL Refrigeration Ltd) are also relevant on this point. Mr Bennett says he supplied the refrigerated unit in the spring of 2002 and, whilst it was originally vehicle mounted, it is nonetheless the same unit in the same location. Mr Knights says that, between November 2001 and January 2002, he installed the three phase electricity supply for the refrigeration unit, which was vehicle mounted at the time. Mr Ling says he has been carrying out regular maintenance and repair to this refrigeration unit since 2002. He confirms that it was vehicle mounted until about 2010.
22. There is a slight discrepancy in that Mr Bennett said in writing that the refrigerated unit was supplied in the spring of 2002, whereas the appellant said that it was 2001. The appellant suggested that Mr Bennett may have been looking at his records of when ownership transferred, rather than when delivery took place. This demonstrates the limitations of written evidence which cannot be tested. However, all of the sworn evidence, oral and written, on behalf of the appellant indicates that the current refrigeration unit, albeit initially vehicle mounted, has been stationed on the appeal site since the end of 2001 or the spring of 2002. Whatever the precise date, the appellant's evidence indicates that it has been there since well before 8 November 2002.
23. This of course is contradicted by the evidence of Mr Beaumont, who says that the refrigerated vehicle was brought onto the site in 2006, though he does confirm that the unit was dismantled from the vehicle about 18 months prior to May 2013. In his proof, the other neighbour, Mr Cinque said the refrigerated unit had only been on site for "a couple of years". In answer to my questions, he said in fact it had originally been there on a vehicle from about 2005/6. Aside from an obscure glazed window and the side panes of a box bay, none of the windows of Mr Cinque's house face the area where the refrigeration unit is located. There is also a boundary wall approximately 1.8m high and boundary planting. Mr Cinque's view is therefore limited, though not completely obscured.
24. Although there is some intervening boundary planting, Mr Beaumont's house includes first floor bedroom windows in the side elevation, overlooking the area where the refrigerated unit is located. The conflict between his evidence and that of the appellant and his witnesses is therefore difficult to resolve. I do not

believe that Mr Beaumont lied about the time when the refrigerated unit came on site. Although aspects of his evidence were confusing, I am sure that he gave an honest account, to the best of his recollection. However, as indicated, he was working abroad a great deal, for up to 9 months a year, until around 2006. Following his retirement, Mr Beaumont was able to take closer note of what was happening on the appeal site. I accept that, even before that, his family could have informed him of events on the site, but they were not at the Inquiry to clarify the position.

25. In any event, aside from Mr and Mrs Coppolaro's own evidence, sworn written evidence from people who separately supplied and maintained the refrigeration unit and provided it with an electricity supply is compelling. The oral evidence on oath from Mr Tanzarella, who delivered goods to the site and personally loaded them into the current refrigeration unit from 2001 is also convincing and was not challenged by the Council. Mr Beaumont and Mr Cinque can be forgiven for being mistaken over the date of arrival of the refrigeration unit. If the evidence of the appellant and his witnesses were to be set aside, that would suggest that there had been a conspiracy to lie on oath. I am not persuaded that this is the case and, for the reasons given, I prefer their evidence and I am satisfied on the balance of probability that the refrigeration unit was stationed on the appeal site from spring 2002 at the latest. Although the appellant acknowledged that, when it was still vehicle mounted, he occasionally took the refrigerated unit out to collect ice cream, I am satisfied that these were de minimus interruptions in the continuity of the use.
26. As I am concerned with the use of land, it is not the specific refrigerated unit that is relevant. However, I will indicate that the stationing of a refrigerated unit of the size currently on site, or smaller, is lawful. This will not operate as a condition and does not necessarily indicate that the stationing of a larger unit would not be lawful. It merely sets a base line against which the materiality of any future change could be assessed.

### **Overall conclusions**

27. For the reasons given and having regard to all other matters raised, I conclude on the main issue that the appellant has proved on the balance of probability that the use of the property as a dwellinghouse and: (i) for the storage of up to 3 ice cream vans for commercial purposes, in breach of conditions on the 1997 permission; and (ii) for the acceptance of deliveries in connection with the ice cream business, in breach of conditions on the 1997 permission; and (iii) for the stationing of a refrigerated storage unit, all commenced on or before 8 November 2002 and continued for 10 years after commencement. In relation to (i) and (ii), the appellant has also proved on the balance of probability that the relevant conditions were still being breached when the LDC application was submitted on 8 November 2012.
28. Accordingly, the Council's refusal of the LDC was not well founded and I will allow the appeal. For the reasons given, I will grant an LDC limited to breaches of the relevant conditions and use for the stationing of a refrigerated storage unit. It will not encompass a more wide ranging B1 type business use.

**Decision**

**Appeal Ref: APP/Q0505/X/13/2193066**

29. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the existing use and matters constituting a failure to comply with conditions which are considered to be lawful.

*J A Murray*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Philip Kratz BA(Hons) Solicitor LMRTPI	Instructed by the appellant
He called	
Toni Coppolaro	Appellant
Tracy Coppolaro	Appellant's wife
Givanni Iodice	Appellant's accountant
Pasquale Tanzarella	Supplier

### FOR THE LOCAL PLANNING AUTHORITY:

Penny Jewkes	Non practising barrister, employed by Cambridge City Council
She called	
Catherine Linford BA(Hons), MSc MRTPI	Senior Planner, Cambridge City Council
Claudio Cinque	Neighbour
Terry Beaumont	Neighbour

## **DOCUMENTS SUBMITTED AT THE INQUIRY**

- 1 Letter from Terry Beaumont to the Council referred to in the letter from Sarah Dyer dated 12 November 2012, which was submitted with the Appeal Questionnaire
- 2 Application plan for planning permission Ref C/97/0695/FP
- 3 Invoice dated 9 March 2001 for Vanilla Liquid Mix
- 4 Norwich Union renewal schedule 13 April 2007
- 5 Reliance Garage list of diesel purchases April 2003
- 6 Letter from Slade Edwards & Co insurance brokers 12 October 2012
- 7 Design and Access Statement dated August 2012 submitted with the application to amend conditions on planning permission Ref C/97/0695/FP
- 8 Closing submissions for the Council
- 9 Closing submissions for the appellant
- 10 Appellant's costs application
- 11 E-mail correspondence between the appellant's solicitor and the Council 30 November 2012; 4 December 2012, 4 - 6 December 2012; 2 & 3 January 2013





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# Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191  
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)  
ORDER 2010: ARTICLE 35

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**IT IS HEREBY CERTIFIED** that on 8 November 2012 the use and matters constituting failures to comply with conditions or limitations subject to which planning permission has been granted all described in the First Schedule hereto, in respect of the land specified in the Second Schedule hereto and edged and hatched in black on the plan 'A' attached to this certificate, were lawful within the meaning of section 191(2) and (3) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The time for enforcement action had expired.

Signed

*J A Murray*

Inspector

Date: 23 July 2013

Reference: APP/Q0505/X/13/2193066

## **First Schedule**

The use of the property as a dwellinghouse and: (i) for the storage of up to 3 ice cream vans for commercial purposes in the garage referred to in conditions 2 and 4 of planning permission reference C/97/0695/FP dated 20 August 1997 (the 1997 permission) and shown cross-hatched in black on the plan 'B' attached to this decision, but with the garage doors open, in breach of conditions 1, 2 and 4 of the 1997 permission; (ii) for the acceptance of deliveries in connection with the ice cream business, in breach of condition 3 of the 1997 permission; and (iii) for the stationing of a refrigerated storage unit, of a size equivalent to or smaller than the unit stationed on the site on 8 November 2012, as shown on the photograph attached to this decision, and located between the dwelling and the garage as extended.

## **Second Schedule**

Land at 27 Babraham Road, Cambridge, CB2 0RB

NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use and matters constituting a failure to comply with any condition or limitation subject to which planning permission has been granted described in the First Schedule taking place on the land specified in the Second Schedule were lawful, on the certified date and, thus, were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use and matters described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use or matter which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.





## Plan

This is the **plan 'A'** referred to in the Lawful Development Certificate dated: 23 July 2013

**by John Murray LLB, Dip.Plan.Env, DMS, Solicitor**

**Land at: 27 Babraham Road, Cambridge, CB2 0RB**

**Reference: APP/Q0505/X/13/2193066**

Scale: DO NOT SCALE





# Plan

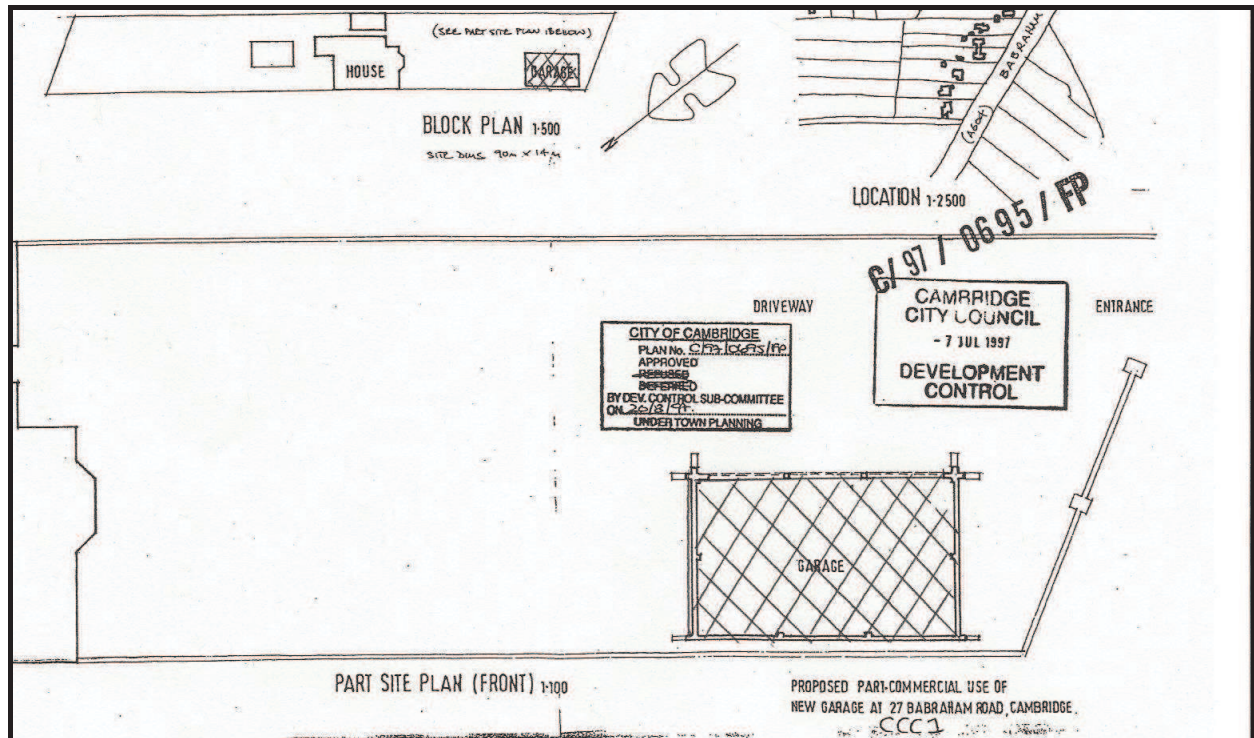
This is the **plan 'B'** referred to in the Lawful Development Certificate dated: 23 July 2013

by **John Murray LLB, Dip.Plan.Env, DMS, Solicitor**

**Land at: 27 Babraham Road, Cambridge, CB2 0RB**

**Reference: APP/Q0505/X/13/2193066**

Scale: DO NOT SCALE







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## Photograph

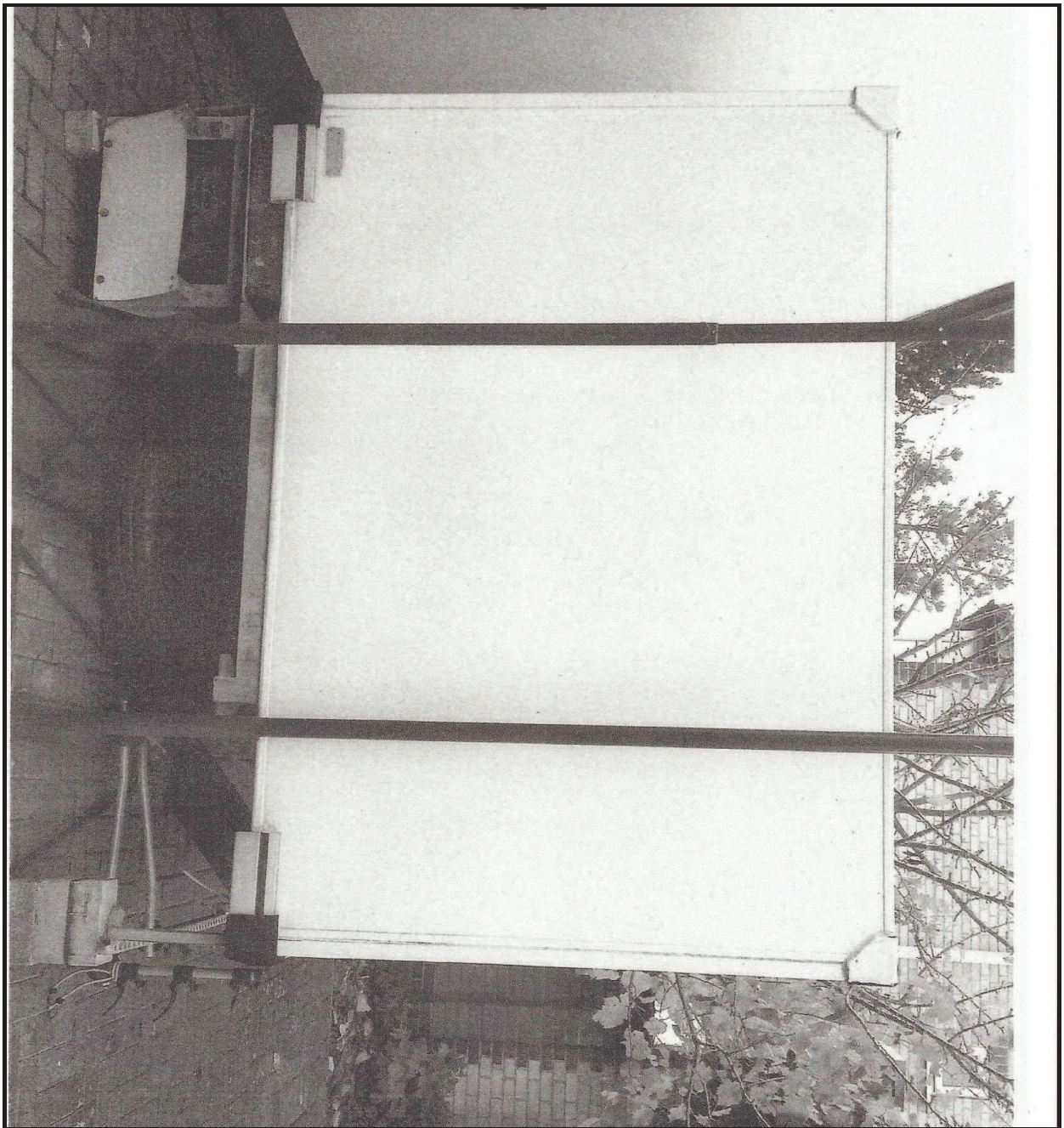
This is the photograph referred to in the Lawful Development Certificate dated: 23 July 2013

**by John Murray LLB, Dip.Plan.Env, DMS, Solicitor**

**Land at: 27 Babraham Road, Cambridge, CB2 0RB**

**Reference: APP/Q0505/X/13/2193066**

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## Cambridge City Council

### Note on the Planning Status of 27 Babraham Road Cambridge

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#### Purpose of this note

This note is prepared by the local planning authority and is intended to set out the Council's current view of the lawful planning use and activities that can take place at 27 Babraham Road Cambridge.

The Council recognises that a lawful mixed use exists at 27 Babraham Road. This note will set out the scale and nature of the business activities within the mixed use that the Council considers are commensurate with the lawful use.

#### The lawful use of 27 Babraham Road

The lawful use of the property, 27 Babraham Road is as a dwelling house and for the storage of up to three ice cream vans for commercial purposes in the garage which is shown cross hatched on the attached plan ("B")<sup>1</sup>. (This does not include the 2 bay car port extension to the garage built subsequent to permission C/01/0558<sup>2</sup>). The vans may be stored in the garage with the doors open and deliveries in connection with the ice cream business may be made to the property. A refrigerated storage unit of a size similar to or smaller than that shown in the attached photo<sup>3</sup> and located between the dwelling and the extended garage is also lawful.

The local planning authority takes the view that the current lawful use<sup>4</sup> provides for no more than three ice cream vans, owned and operated in association with the residential occupation of 27 Babraham Road to be stored in the garage at the property when not in use. The Council considers this means they can traverse the driveway and hard standing areas that provide access to the garage where they are permitted to be stored. It does not provide for them to be stored/stationed outside the garages or anywhere else on the property when not in use. The Council also takes the view that the vehicles can only be outside the garages at the property when 'in use', only for the time it takes to move them into and out of the garages at the reasonably recognisable start and end of business trading periods.

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<sup>1</sup> From Planning Permission ref: C/97/0695/FP and Planning Inspector Decision Letter 23/7/13. Ref: App/Q0505/X/13/2193066

<sup>2</sup> Paragraph 14 Planning Inspector Decision Letter 23/7/13. Ref: App/Q0505/X/13/2193066

<sup>3</sup> Planning Inspector Decision Letter 23/7/13. Ref: App/Q0505/X/13/2193066

<sup>4</sup> Planning Inspector Decision Letter 23/7/13. Ref: App/Q0505/X/13/2193066



The council takes the view that it is lawful for the restocking of the ice cream vans to happen when the ice cream vans are not in use at a time of day commensurate with the usual business trading hours for this type of business. The lawful use does not extend to the areas outside of the garages so by implication does not include use of these areas for the re-stocking or stationing of ice cream vehicles.

Likewise the delivery of any stock reasonably associated with three ice cream vans is interpreted as being lawful to happen at the property only for the minimum reasonable time to unload stock related deliveries and at times and frequencies considered reasonable in relation to the scale and type of lawful business activity being serviced from the up to three vehicles stored at this site<sup>5</sup>.

The lawful use does not provide for the manufacturing of ice cream or other products anywhere on the premises. Nor the provision of or sale to third parties of ice-cream and refrigerated products or soft drinks etc.

There is no permission or lawful use for the storage/stationing of a hot potato cart at the property<sup>6</sup> and this is not considered to be an ancillary storage activity so is not lawful.<sup>7</sup>

The Council will review this position from time to time and may reconsider this position in the light of new evidence or material that comes forward.

Patsy Dell

Head of Planning Services

29/11/2013

Attachments:

Planning Appeal Decision letter: App/Q0505/X/13/2193066

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<sup>5</sup> Paragraph 19, Planning Inspector Decision Letter 23/7/13. Ref: App/Q0505/X/13/2193066

<sup>6</sup> Paragraph 9 Planning Inspector Decision Letter 23/7/13. Ref: App/Q0505/X/13/2193066

<sup>7</sup> The Planning Service has to report back to the Council's South Area Committee on the planning situation at the site and any outstanding unlawful activities at the site will need to be considered at that time.

## CAMBRIDGE CITY COUNCIL

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REPORT OF: Head of Planning Services

TO: South Area Committee                      DATE: 23/04/14

WARD: Queen Ediths

### **PLANNING ENFORCEMENT CONTROL ENFORCEMENT NOTICE REPORT**

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#### **27 Babraham Road, Cambridge Unauthorised storage of a hot potato cart and use of a car port garage extension for the storage of ice cream vans**

SUMMARY	<p>Planning enforcement investigations have identified an unauthorised storage of a hot potato cart and use of a car port garage extension for the storage of ice cream vans.</p> <p>The storage of the hot potato cart is ancillary to the use of the premises as a dwelling house.</p> <p>The use of the car port garage extension for the storage of ice cream vans represents an unacceptable expansion of the lawful non-residential use of the site and has an adverse impact on residential amenity.</p>
RECOMMENDATION	<p>That enforcement action be authorised in respect of the unauthorised change of use of a car port garage extension for the storage of ice cream vans.</p>

## **1 INTRODUCTION**

- 1.1 This report seeks delegated authority to serve an Enforcement Notice to address the unauthorised change of use of a car port garage extension for the storage of ice cream vans at 27 Babraham Road (see appendix A for site plan).



## **2 PLANNING HISTORY**

See Appendix B.

## **3 THE INSPECTORS DECISION AND THE TERMS OF THE CERTIFICATE OF LAWFUL USE OR DEVELOPMENT ('THE CERTIFICATE')**

3.1 A copy of the Inspector's Decision letter is attached at Appendix C. The Inspector allowed the appeal and in doing so issued a Lawful Development Certificate which is embedded in the Decision letter. The Certificate allows for the following:

- The storage of up to three ice cream vans for commercial purposes in the garage referred to in conditions 2 and 4 of planning permission reference C/97/0695/FP and shown hatched on an attached plan but with the garage doors open in breach of conditions 1, 2 and 4 of the 1997 permission. (The plan identifies the original garage only and not the car port extension)
- The acceptance of deliveries in connection with the ice cream business in breach of condition 3 of the 1997 permission
- The stationing of a refrigerated storage unit, of a size equivalent to or smaller than the unit stationed on the site in November 2012 located between the dwelling and the garage as extended.

## **4 PLANNING STATUS OF 27 BABRAHAM ROAD NOTE**

4.1 It is the view of officers that the Inspectors decision is clear; however for the avoidance of doubt a Note has been prepared which sets out the Council's position regarding the Planning Status of 27 Babraham Road. A copy of the Note is attached at Appendix D. A copy of the Note has been sent to the appellant and the neighbours either side of 27 Babraham Road who have raised concerns about the way in which 27 Babraham Road is used.

4.2 The certificate has confirmed that certain planning uses of the site are lawful but it only relates to those uses that were the subject of the application. The planning permission taken with the certificate determines the lawful uses of the site. In the opinion of officers neither the use of the car port extension for the storage of ice cream

vans nor the storage of the hot potato cart are covered by the planning permission or the certificate.

## **5 BACKGROUND/TIMELINE OF ENFORCEMENT INVESTIGATION**

- 5.1 An enforcement investigation has remained open throughout the determination of the application for a Certificate of Lawful Use or Development and the related appeal. The view of officers is that planning permission reference C/97/0695/FP as modified by the certificate clearly establishes which activities can lawfully be carried out at 27 Babraham Road. The certificate only covers those uses that were part of the lawful development certificate application. The certificate does not cover all the activities that are being carried out at the premises. It is for the Council to assess whether or not other activities being carried out at the premises can be considered a lawful use of the C3 dwelling. The purpose of the Note on the Planning Status of 27 Babraham Road was to set out the Council's position in detail following the outcome of the Appeal.
- 5.2 Since the production of the Note, officers have been contacted by local residents who have raised concerns about the activities which are currently being undertaken at 27 Babraham Road. In addition to the concerns regarding the planning use of the property their concerns include issues such as noise nuisance which fall outside planning control and a joint investigation by Planning Enforcement officers and Environmental Health officers has been initiated.
- 5.3 A joint site visit was carried out by Planning Enforcement officers and Environmental Health officers on 1 April 2014. In respect of the storage of the hot potato cart and the use of the car port garage extension for storage of ice cream vans the following observations were made:
- The hot potato cart is stored between the refrigeration units and the house frontage beside the boundary with 25 Babraham Road. It is stored in the open, on the forecourt and not in a garage.
  - Two ice cream vans were being stored in the garage extension.
  - The garage approved by C/97/0695/FP is being used for storage of domestic vehicles and for the storage of goods associated with the ice cream business.

- 5.4 Since the production of the Note there has been on-going correspondence between officers and the site owner's legal representative. The issues raised and the officer position is set out below:

Use of site for storage of hot potato cart

*Operator's Legal representative's view*

- 5.5 The storage of the hot potato cart could be regarded as an ancillary use to the main use of the property as a dwelling.

*Officer's view*

- 5.6 The lawful use of 27 Babraham Road is as a dwelling with storage of ice cream vans permitted in the garage. The storage of the hot potato cart is not ancillary to the storage of ice cream vans but could be regarded as ancillary to the use as a dwelling. In order to establish that it is an ancillary use the Council would need to be convinced that the storage of the hot potato cart does not conflict with the use as a dwelling and is not out of character with that use.
- 5.7 The storage of the hot potato cart results in some additional comings and goings to the premises and could be visible from beyond the boundaries of the site. The Food Team within the Environment and Refuse service has advised that the food premises registration form gives 27 Babraham Road as the address where the cart is stored whilst not trading and that the cart is cleaned at the premises. It would be difficult to demonstrate that these impacts differ from those normally associated with any operation of a business from home for example a painter and decorator storing his van overnight, cleaning it and loading it up.
- 5.8 In order to justify the service of an Enforcement Notice the Council would need to produce evidence to demonstrate that the storage of the hot potato cart is not an ancillary use to the principal use as a dwelling. It is the view of officers that it would be difficult to produce evidence of this in the event that an Enforcement Notice is served and an appeal submitted. This could result in the Enforcement Notice being quashed and would leave the Council open to a claim for costs.
- 5.9 The current position which is adopted by officers in relation to the storage of the hot potato cart differs from that set out in the Planning Status Note. The Note states that 'There is no permission or lawful

use for the storage/stationing of a hot potato cart at the property and this is not considered to be an ancillary storage activity so it not lawful'. The reason for the change of view is that in the light of comments made by the applicant and his legal representative and on reflection it is not going to be possible to provide evidence to demonstrate that the hot potato cart is not ancillary to the use as a dwelling. The fact that the storage of the hot potato cart is not referred to in the planning permission as modified by the certificate does not make it an unlawful use.

5.10 At the time of the preparation of the Status Note officers were considering whether the storage of the hot potato cart is ancillary to the commercial activity at 27 Babraham Road. However, as raised by the operator's legal representative, there is an argument for saying that the current use of land for storage of a hot potato cart is ancillary to the use as a dwellinghouse. At present officers cannot disagree with this argument. However if the storage of hot potato cart use intensified, for example through the storage of additional carts, then the ancillary test would need to be re-applied.

5.11 It is the view of officers that the storage of the hot potato cart is an ancillary and lawful use and that it is not expedient to pursue enforcement action to secure cessation of the use.

#### Use of car port garage extension for storage of ice cream vans

##### *Operator's Legal representative's view*

5.12 The use of car port garage extension for storage of ice cream vans is lawful because either condition 2 of the 1997 permission which permits 3 ice cream vans to be stored on the premises could be regarded as applying to the premises as a whole or that the extension has acquired its own immunity by use for more than ten years.

##### *Officer's view*

5.13 The car port garage extension was permitted in 2001. There are no conditions restricting the use of the garage extension or permitting the use for storage of ice cream vans. The use of the garage extension for storage of ice cream vans creates space in the original garage which is used for the storage of stock and this has resulted in an expansion of the ice cream van storage use over a greater part of the property. The original intention of the conditions attached to

planning permission reference C/97/0695/FP was to limit the impact of the non-residential use. The certificate granted at appeal does not change this approach and the appellant did not seek to establish the lawful use of the garage extension as part of the appeal.

- 5.14 It is considered expedient to pursue enforcement action to secure cessation of the use to ensure that the restrictions placed on a non-residential use within a residential area are effective in the interests of the protection of residential amenity.

## **6 ASSESSMENT AGAINST PLANNING POLICY AND OTHER MATERIAL CONSIDERATIONS**

- 6.1 The National Planning Policy Framework states:

‘Para 207 Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so.’

- 6.2 It is the view of officers that the principle of taking enforcement action is appropriate in this case and in investigating the breach of planning control and setting out recommendations, officers have been mindful of and complied with the Planning Investigation Service Policy and the City Council’s Enforcement Concordat.

- 6.3 Consideration has also been given to the Human Rights Act 2000 and to the Equalities Act 2010. Officers have noted Article 1 Protocol 1 (protection of property), Article 6 (a right to a fair hearing within a reasonable time), Article 8 (right to respect for private family life) and Article 14 (prohibition of discrimination) as being relevant. Officers consider that the service of an enforcement notice with a reasonable period for compliance would be lawful, fair, proportionate, non-discriminatory, and necessary in the general public interest to achieve the objective of upholding national and local planning policies. The protection afforded by the Human Rights Act 2000 and the Equalities Act 2010 do not outweigh the reasons for proceeding with planning enforcement.

- 6.4 An Enforcement Notice carries with it a right of appeal to the Planning Inspectorate and the Inspectorate have the power to vary the Notice to amend the steps to comply.
- 6.5 In reaching the view that enforcement action is necessary, Officers have assessed the unauthorised change of use of the car port garage extension for the storage of ice cream vans against Local Plan Policy and central government policy/guidance as follows.

*Assessment against Cambridge Local Plan 2006*

- 6.6 The relevant policy in the Local Plan is policy 4/13:

4/13 Pollution and Amenity

Development will only be permitted which:

- a. does not lead to significant adverse effects on health, the environment and amenity from pollution; or
- b. which can minimise any significant adverse effects through the use of appropriate reduction or mitigation measures.

Proposals that are sensitive to pollution, and located close to existing pollution sources, will be permitted only where adequate pollution mitigation measures are provided as part of the development package.

- 6.7 The use of the car port garage extension for storage of ice cream vans generates noise and disturbance over and above that associated with the lawful use of the site as a dwellinghouse and for the storage of three ice cream vans in the garage permitted under planning application reference C/97/0695/FP. In particular the use of the garage extension allows the garage to be used for storage associated with the storage of ice cream vans thereby expanding the area of the site given over to the business use. The degree of disturbance is such that it has an adverse impact on the amenities enjoyed by the occupiers of neighbouring properties. If an application for change of use of a car port garage extension for the storage of ice cream vans was to be submitted, officers would recommend refusal on the grounds of conflict with policy 4/13 of the Local Plan.

*Assessment against central government guidance*

- 6.8 Paragraph 123 of the NPPF provides the following guidance:



Planning policies and decisions should aim to:

- 1 avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;
- 2 mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;
- 3 recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established and
- 4 identify and protect areas of tranquility which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.

6.9 Point 4 is not relevant in this case. The site is bounded on each side by private gardens and could not be categorised as a protected area. Point 3 is also not relevant because nearby land uses have not changed. Points 1 and 2 are relevant.

6.10 The lawful use of 27 Babraham Road already has an adverse impact on the health and quality of life of nearby residents as reflected in comments made by them in correspondence with the Council. Continued use of the car port for storage of ice cream vans will exacerbate this impact. Whilst it may be possible to mitigate the impact of the use of the car port through conditions, in combination with other activities on at 27 Babraham Road this additional activity is not acceptable in terms of its impact on residential amenity. There is clear conflict with guidance provided by the NPPF.

6.11 Planning Practice Guidance offers the following advice in terms of how noise impact can be mitigated which is as follows:

How can the adverse effects of noise be mitigated?

This will depend on the type of development being considered and the character of the proposed location. In general, for noise making developments, there are four broad types of mitigation:



- engineering: reducing the noise generated at source and/or containing the noise generated;
- layout: where possible, optimising the distance between the source and noise-sensitive receptors and/or incorporating good design to minimise noise transmission through the use of screening by natural or purpose built barriers, or other buildings;
- using planning conditions/obligations to restrict activities allowed on the site at certain times and/or specifying permissible noise levels differentiating as appropriate between different times of day, such as evenings and late at night, and;
- mitigating the impact on areas likely to be affected by noise including through noise insulation when the impact is on a building.

6.12 The dwellings close to 27 Babraham Road constitute 'sensitive receptors'. The conditions that were originally imposed on the use of the site were intended to control the use to a level that was acceptable in a residential area. This was achieved by conditions to restrict the number of ice cream vans, the location where they could be stored and limiting the use of the garage to storage for two ice cream vans only. The Certificate has broadened the lawful use of 27 Babraham Road by for example allowing three vans to be stored lawfully and storage in the garage with the doors open and allowing storage of a refrigeration unit. Officers are of the view that it would not be possible to satisfactorily control the impact of the use of the car port for storage of ice cream vans via conditions/obligations to a level that would not have harmful effect on residential amenity given the cumulative effect that these additional activities generate.

#### *Material Considerations*

6.13 It could be argued that to take enforcement action in this case would not be appropriate because it would have an adverse impact on the operation of a small business. However in this case the business is being conducted in a residential area and the need to protect the residential amenity of neighbours outweighs this material consideration. There are no other material considerations that would lead officers to conclude that enforcement action would not be appropriate.

## 7 RECOMMENDATIONS

7.1 The Committee is requested to consider the details of this report and any relevant representations made to them at this Committee, and approve the following:

1. To authorise the Head of Planning and the Head of Legal Services to prepare and serve an enforcement notice under S172 of the Town and Country Planning Act 1990 (as amended) in respect of a breach of planning control, namely the material change of use of the car port garage approved under planning reference C/01/0558/FP at 27 Babraham Road to business use for storage of ice cream vans specifying the steps to comply and the period for compliance set out in paragraphs 7.2 and 7.3, for the reasons contained in paragraph 7.4.
2. To delegate authority to the Head of Planning (after consultation with the Head of Legal Services) to exercise the Council's powers to take further action in the event of non-compliance with the enforcement notices

### Enforcement Notice – Use of the car port garage extension for storage of ice cream vans

#### 7.2 *Steps to comply*

Cease the use of the car port garage extension for storage of ice cream vans.

#### 7.3 *Period for compliance*

28 days after the date on which the Enforcement Notice takes effect.

#### 7.4 *Statement of Reasons for inclusion on the Notice:*

It appears to the Council that the breach of planning control namely the material change of use of the car port garage approved under planning reference C/01/0558/FP at 27 Babraham Road to business use for storage of ice cream vans, has occurred within the last 10 years.

The change of use of the car port garage extension for the storage of ice cream vans has given rise to additional noise and disturbance to neighbours over and above that associated with the storage of ice cream vans within the garage permitted under planning reference

C/97/0695/FP and an expansion of the extent of the business activities on the site resulting in an unacceptably adverse impact on their amenities.

The material change of use of the car port garage approved under planning reference C/01/0558/FP at 27 Babraham Road to business use for storage of ice cream vans has been undertaken without the benefit of planning permission and is contrary to policy 4/13 of the Cambridge Local Plan 2006, and to government guidance in Paragraph 123 of the National Planning Policy Framework 2012

Mindful of the NPPF, Development Plan policy and other material considerations, the Council consider it expedient to serve an enforcement notice in order to remedy the breach of planning control.

Consideration has been given to the Human Rights Act 2000 and the Equalities Act 2010. Officers have noted Article 1 Protocol 1 (protection of property), Article 6 (a right to a fair hearing within a reasonable time), Article 8 (right to respect for private family life) and Article 14 (prohibition of discrimination). Officers consider that the service of an enforcement notice with a reasonable period for compliance would be lawful, fair, proportionate, non-discriminatory, and necessary in the general public interest to achieve the objective of upholding national and local planning policies, which seek to protect which seek to protect residential amenity.

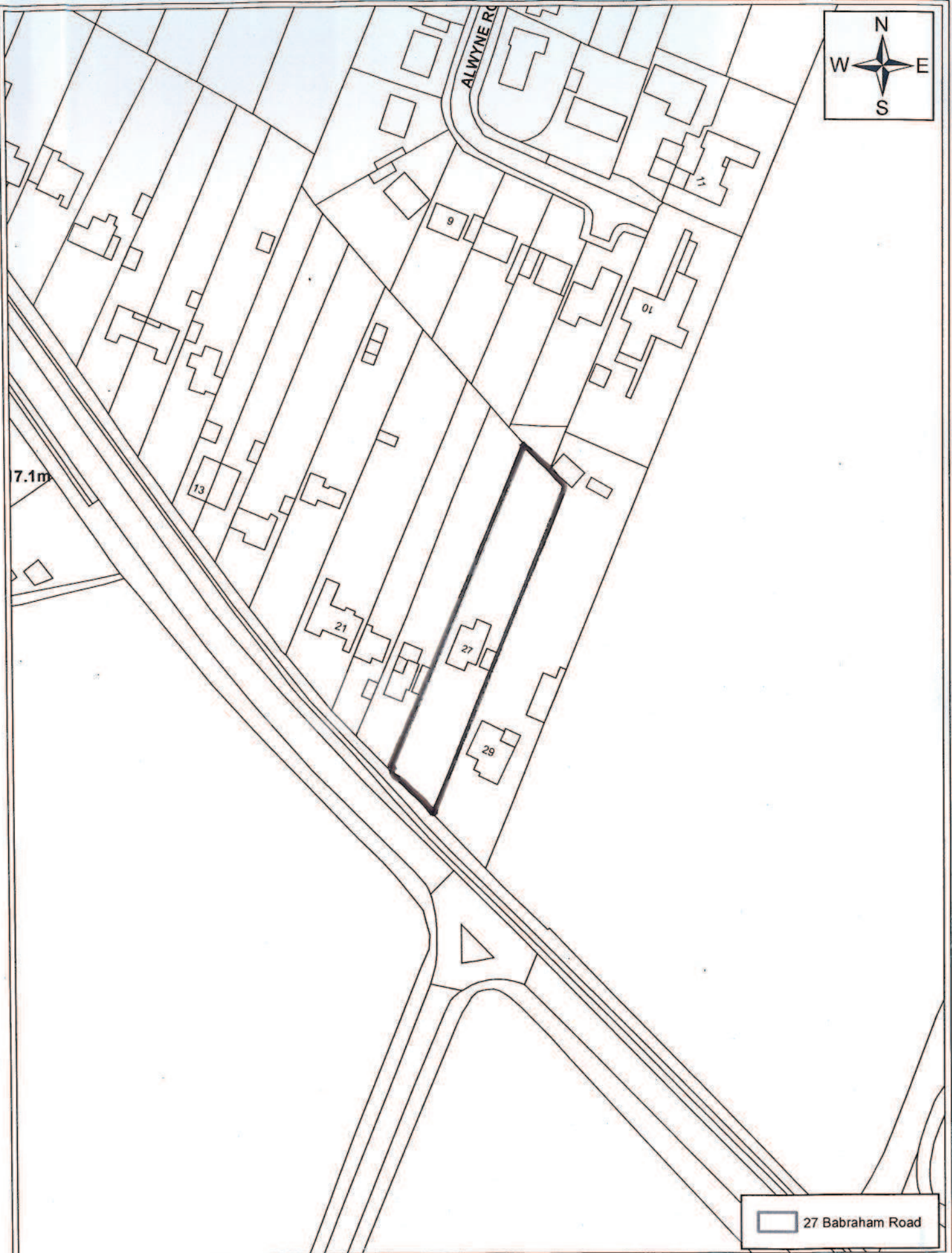
## **APPENDICES**

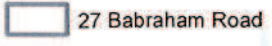
Appendix A	Site location plan
Appendix B	Planning History
Appendix C	Inspectors Decision (12/1438/CLUED)
Appendix D	Note on the Planning Status of 27 Babraham Road

The contact officer for queries on the report is Sarah Dyer on ext 7153.

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 27 Babraham Road

# 27 Babraham Road



Date:	12 February 2013
Produced by:	GIS Team
Section/Department:	Information Systems, Environment Dept
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## Appendix B Planning History

The following table sets out the relevant planning history for 27 Babraham Road. The full details of the applications are set out in detail below as necessary.

Reference	Description	Decision
C/93/0133/FP	Garage in front garden (amended by letter dated 26.03.93 and 01.02.95 with accompanying plans)	Approved with conditions
C/97/0695/FP	The use of the land and buildings at 27 Babraham Road as a dwelling house and for the storage of two ice cream vans used for commercial purposes	Approved with conditions
C/01/0558/FP	Erection of 2bay car port extension to existing garage.	Approved with conditions
05/0603/FUL	Single storey side extension to dwellinghouse with conservatory to rear. Single storey front extension to garage.	Refused
12/1107/S73	Application to vary condition 1 to include a maximum of 4 ice cream vans, condition 2 so that vans not in use shall be stored in the existing garage but not behind closed doors, condition 3 to allow deliveries to the site and condition 4 to allow the parking of 4 ice cream vans within the existing garage block on planning approval C/97/0695/FP.	Withdrawn
12/1438/CLUED	Application to the Council for a certificate of lawful use or development for the storage of four ice cream vans, the stationing of a refrigerated storage unit, acceptance of deliveries in connection with the ice cream business and the mixed use (C3/B1) of the property. Appeal to the Secretary of State against the Council's refusal to	Certificate Refused  Appeal Allowed



		grant the certificate	
Appeal APP/Q0505/X/ 2193066	ref.	Lawful development certificate granted for use of the property as a dwelling-house and (i) for the storage of up to 3 ice cream vans in the garage referred to in conditions 2 and 4 of C/97/0695/FP but with the garage doors open; (ii) for the acceptance of deliveries in connection with the ice cream business and (iii) for the stationing of a refrigerated unit of a size equivalent to or smaller than the unit stationed on site on 8 November 2012.  For the full wording see appendix B to this report	Certificate granted 23 July 2013

C/93/0133/FP and C/97/0695/FP

In April 1993 planning permission was granted for a detached three-bay garage in the front forecourt of 27 Babraham Road. In 1997 permission was granted to allow 27 Babraham Road to be used as a dwelling house and for the storage of two ice cream vans. This was subject to the following conditions:

1. The number of ice-cream vans stored at the premises shall not exceed two vehicles.  
Reason: To protect the residential amenity of adjacent residential occupiers.
2. The ice-cream vans, when not in use, shall be stored within the existing garages at all times with the doors closed.  
Reason: To protect the visual amenity of the area.
3. There shall be no deliveries to the premises associated with the ice-cream business.  
Reason: To protect the amenity of adjacent residential properties.
4. The garage shall be used for the parking of no more than two ice-cream vans and the parking of domestic vehicles only and for no other purpose without express consent to be given in writing by the local planning authority.

Reason: To protect the residential amenity of adjacent residential properties.

C/01/0558/FP

In 2001 an application for a 2 bay car port extension to the 3 bay garage was permitted. There were no conditions regulating the use of the car port but an informative stated that the car port may not be used for the storage of commercial vehicles without the express permission of the local planning authority.

12/1107/S73

In August 2012 an application was made to vary the conditions attached to the permission for the garage following a planning enforcement inquiry into allegations that the conditions attached to planning permission reference C/97/0695/FP were not being complied with. The application sought the following variations to conditions:

- Condition 1 to include a maximum of 4 ice cream vans
- Condition 2 so that vans not in use shall be stored in the existing garage but not behind closed doors
- Condition 3 to allow deliveries to the site
- Condition 4 to allow the parking of 4 ice cream vans within the existing garage block on planning approval C/97/0695/FP

The application was withdrawn

12/1438/CLUED

In November 2012 an application was submitted for a Certificate of Lawful Use or Development. This sought to confirm the lawfulness of the following activities and use of the property:

- The storage of four ice cream vans
- The stationing of a refrigerated storage unit
- Acceptance of deliveries in connection with an ice cream business
- Mixed C3/B1 use

The application was refused under delegated powers on the basis that the applicant had not demonstrated on a balance of probabilities that the use has continued for 10 years.

Appeal ref. APP/Q0505/X/ 2193066

In March 2013 an Appeal was submitted in response to the Council's decision. This was heard by way of an Informal Hearing in June 2013 and the Inspector allowed the appeal.

The Inspector allowed the appeal and certified that the following uses were lawful within the meaning of section 191(2) and (3) of the Town and Country Planning Act 1990 because the time for enforcement action had expired:

- The storage of up to three ice cream vans for commercial purposes in the garage referred to in conditions 2 and 4 of planning permission reference C/97/0695/FP and shown hatched on an attached plan but with the garage doors open in breach of conditions 1, 2 and 4 of the 1997 permission. (The plan identifies the original garage only and not the car port extension)
- The acceptance of deliveries in connection with the ice cream business in breach of condition 3 of the 1997 permission
- The stationing of a refrigerated storage unit, of a size equivalent to or smaller than the unit stationed on the site in November 2012 located between the dwelling and the garage as extended.

A copy of the Inspectors Decision letter/Certificate of Lawfulness is attached at Appendix C.



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## Appeal Decision

Inquiry held on 19 and 20 June 2013

Site visit made on 19 June 2013

**by John Murray LLB, Dip.Plan.Env, DMS, Solicitor**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 23 July 2013**

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**Appeal Ref: APP/Q0505/X/13/2193066**

**27 Babraham Road, Cambridge, CB2 0RB**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr Toni Coppolaro against the decision of Cambridge City Council.
- The application Ref 12/1438/CLEUD, dated 8 November 2012, was refused by notice dated 7 January 2013.
- The application was made under section 191(1)(a) and (c) of the Town and Country Planning Act 1990 as amended.
- On the face of the application, the use for which a certificate of lawful use or development is sought is:
  - (i) The storage of four ice cream vans at the property;
  - (ii) The stationing of a refrigerated storage unit at the property;
  - (iii) The acceptance of deliveries in connection with the ice cream business at the property;
  - (iv) The mixed use (C3/B1) of the property.

**Summary of Decision: The appeal is allowed and a certificate of lawful use or development is issued, in the terms set out below in the Decision.**

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### Application for costs

1. At the Inquiry an application for costs was made by Mr Toni Coppolaro against Cambridge City Council. This application is the subject of a separate Decision.

### Procedural and background matters

2. All evidence at the Inquiry was taken on oath.
3. On 28 April 1993, planning permission Ref C/0133/93 was granted for the erection of a detached domestic garage in the front garden of the appeal property. No conditions were imposed to restrict the use of the garage. On 20 August 1997 planning permission Ref C/97/0695/FP (the 1997 permission) was granted for "the use of the land and buildings at 27 Babraham Road as a dwelling house and for the storage of two ice cream vans used for commercial purposes. That permission was subject to 4 conditions, as follows:
  - (1) The number of ice cream vans stored at the premises shall not exceed two vehicles;
  - (2) The ice cream vans, when not in use, shall be stored within the existing garage at all times with the doors closed;

- (3) There shall be no deliveries to the premises associated with the ice cream business;
  - (4) The garage shall be used for the parking of no more than two ice cream vans and the parking of domestic vehicles only and for no other purpose without express consent in writing to be given by the local planning authority.
4. On 13 July 2001 the Council granted planning permission Ref C/01/0558/FP (the 2001 permission) for the erection of a 2 bay car port extension to the existing 3 bay garage, which was granted permission under Ref C/0133/93. No conditions were imposed regulating the use of that extension.
  5. As set out in the heading of this decision, the LDC application sought to establish, among other things, that the "mixed use (C3/B1) of the property" was lawful, as at the date of the application. However, as mixed uses do not fall within any particular use class<sup>1</sup> the parties agreed that any LDC should not refer to use classes.
  6. Although the Council initially took a different view, at the Inquiry, the parties agreed that the 1997 permission authorised a mixed use of No 27 Babraham Road, which comprises a single planning unit, albeit that the commercial element of the mixed use was strictly limited and controlled by the conditions set out above. Notwithstanding the terms of part (iv) of the LDC application, as set out in the heading, the appellant does not seek to argue that there is a more general and extensive lawful business of the type described in Class B1. The appellant merely asks for an LDC in relation to a mixed use comprising the uses described in the 1997 permission, without complying with the conditions, along with use for the stationing of a refrigerated storage unit. Some of the evidence adduced by the Council was aimed at demonstrating that there was a material intensification of the business use within the 10 years up to the LDC application. However, in closing, the Council accepted that, as the appellant is not seeking to establish that a more general and extensive business use has become lawful, it is not necessary to pursue the intensification argument.

### **Main Issue**

7. I must determine whether the Council's refusal of an LDC was well founded. Having regard to the background set out above, the main issue is whether the appellant has proved on the balance of probability that the use of the property as a dwellinghouse and: (i) for the storage of up to 4 ice cream vans for commercial purposes, in breach of conditions on the 1997 permission; (ii) for the acceptance of deliveries in connection with the ice cream business, in breach of conditions on the 1997 permission; and (iii) for the stationing of a refrigerated storage unit, all commenced on or before 8 November 2002 and continued for 10 years after commencement. In relation to (i) and (ii), I must also determine whether the appellant has proved on the balance of probability that the relevant conditions were still being breached as described when the LDC application was submitted on 8 November 2012<sup>2</sup>.

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<sup>1</sup> *Belmont Riding Centre v Secretary of State for Transport, Local Government and the Regions* [2002] EWCA Civ 169.

<sup>2</sup> To succeed on an LDC application concerning the failure to comply with a condition, the breach must be in existence at the time of the application: *Nicholson v Secretary of State for the Environment and Maldon District Council* [1998] JPL 553.

8. It is not for me to consider whether the matters the subject of this appeal are acceptable in planning terms; I can only determine whether they are lawful by virtue of being immune from enforcement action.

### Reasons

9. As far as the number of ice cream vans is concerned, the appellant acknowledges that, as at the date of the LDC application, he only had 3 stored at the property. The fourth van was sold in February 2012, some 9 months before the application. Although the appellant says he has also stored a jacket potato trailer on the premises from August 2011 to the present date, this cannot contribute to a breach of condition 1 of the 1997 permission, which relates specifically to ice cream vans. At best then, I could only grant an LDC for the storage of up to 3 ice cream vans.
10. Mr and Mrs Coppolaro's evidence was that, in breach of condition 1 of the 1997 permission, between 1997 and the date of the LDC application, there has never been fewer than 3 ice cream vans stored at the appeal property. This was corroborated by the sworn oral testimony of Mr Iodice, the accountant and company secretary of the appellant's business, Toni's Ices.
11. In his proof, Mr Beaumont, of No 29 Babraham Road, said that he had never seen as many as 4 ice cream vans stored at the property during 2012. In oral evidence he said that until 2006 he was abroad on business for much of the time and did not pay much attention to the area. Under cross examination, his evidence on this aspect was a little confusing. At one point he suggested that there had only been 2 ice cream vans for some of the relevant 10 year period, but then he said he regularly saw 3 or 4, but believed some of them may have belonged to other dealers. The basis of that belief was unclear but, in any event Mr Beaumont's letters to the Council dating from 15 June 2001 and sometime after August 2012<sup>3</sup> indicated that conditions on the 1997 permission, including condition 1, had been breached since 1997. I accept that Mr Beaumont's letters were not written in the context of a claim for immunity from enforcement action and he may not have been aware of the consequences of what he was alleging. Nevertheless, Condition 1 would only have been breached if there had been at least 3 ice cream vans stored on the premises. The other next door neighbour, Mr Cinque, said that he had lived at No 25 since 2001. In his proof, Mr Cinque said that there were not 4 ice cream vans stored at the appeal property when he entered in 2001. In oral evidence, he could not really remember how many ice cream vans had been stored during the relevant 10 year period, but he had probably seen 2 or 3. It was apparent from my inspection that Mr Cinque would not have had a view of the garage bays from his own property.
12. I accept that documents provided by the appellant, including registration documents, servicing invoices, receipts and insurance records, do not clearly demonstrate in themselves how many ice cream vans were stored on the property at any one time. This is especially so since the appellant says he often transferred personalised number plates between vehicles. However, neither do the documents indicate that the substance of what Mr and Mrs Coppolaro say about the number of ice cream vans is untrue. The evidence before me indicates that there were probably no fewer than 3 ice cream vans stored on the property in breach of conditions 1 and 4 throughout the period 8

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<sup>3</sup> In response to application reference 12/1107/S73.



November 2002 to 8 November 2012. Indeed there is nothing which clearly contradicts the appellant's evidence.

13. In relation to condition 2 of the 1997 permission, whilst I have heard no evidence that ice cream vans have been consistently stored other than in the garage, the appellant's evidence that the garage doors have not been closed was corroborated by Mr Beaumont's evidence when he said in his proof that the garage doors were "rarely closed". The Council accepts that there is sufficient evidence of this breach of condition 2.
14. There was some debate over whether condition 2 of the 1997 permission would prevent ice cream vans being stored in the 2 bay garage extension constructed pursuant to the 2001 permission. The 2001 permission included an 'informative' indicating that the extension could not be used for the storage of commercial vehicles without express permission, but no condition to that effect. There is therefore nothing in the 2001 permission itself preventing use of the extension to store ice cream vans. I also accept the appellant's submission that, where a building has a permitted use, a permitted extension to that building could normally be used for the same purpose. However, condition 2 of the 1997 permission restricted the use of the property as a whole. When it limited storage of ice cream vans to storage within the "existing garage", that meant the existing 3 bay garage shown on the application plan. The Council would have to consider whether it would be expedient to enforce against the storage of ice cream vans within the 2 bay extension. Nevertheless, as I have not heard evidence of such storage for the relevant 10 year period, I cannot certify storage within that extension as lawful.
15. Turning to the matter of deliveries. Mr Beaumont says that there has been a significant increase in deliveries and activity on the appeal site since around 2006 and M Cinque refers to an increase in activities during the last couple of years. I am conscious that this alleged increase coincides with Mr Beaumont's retirement and consequent ability to observe a lot more and that, on the other hand, Mr Cinque says he is not in a good position to comment on deliveries because he works away from home during the day. In any event, as I have already indicated, the question of whether there has been a material intensification of the use of the property, so as to effect a fundamental change in the character of that use, is not relevant to the issues in this appeal. I merely have to determine whether condition 3 of the 1997 permission has been consistently breached for 10 years up to and including 8 November 2012 by the acceptance of deliveries to the premises associated with the ice cream business in a way that is more than de minimis.
16. The Council accepts that the breach of condition 3 became persistent, continuous and material some time around 2006, when neighbours became demonstrably aware of the deliveries. It also concedes that there may have been some deliveries in the years prior to 2005, but contends it would have been difficult for the Council to have proven that these were any more than occasional.
17. Mr and Mrs Coppolaro state that they have accepted deliveries of ice cream products at the appeal property since 1997. That was corroborated by the oral sworn testimony of Mr Iodice and, in relation to the period from 2000, by that of Mr Tanzarella, a director of Franco's Ices Ltd. With reference to the disputed period between 2002 and 2005/6, Mr Tanzarella said that from late 2000 to



date, his company delivered ice cream products (both ice cream mix and lollies) to the appeal property, 2 or 3 times a month during the summer months and throughout the year. He said that, up to 2007, he generally made the deliveries personally. Statutory declarations from both the managing director and a driver of Greco Brothers Ltd state that they delivered ice cream cones and wafers to the appeal property 2 or 3 times per year throughout the 11 years leading up to May 2013. In a further statutory declaration, the sales manager of the former company, Dairyland Ices (East Anglia) Ltd, said that from September 1997 to November 2005, as well as visiting regularly, he caused deliveries of ice cream products to be made to the appeal property on a weekly basis during the summer months and less often throughout the remainder of the year.

18. Though representatives of Greco Brothers Ltd and Dairyland Ices (East Anglia) Ltd did not attend the Inquiry, there is no evidence that their statutory declarations are untrue. Furthermore, whilst the supporting documentary evidence is a little patchy for the disputed period, the appellant produces copy invoices for ice cream products dating from 29 May 2002, 24 January 2003, 31 January 2003, 15 April 2003, February/April 2004, 13 July 2004 and from February 2005 for nearly every month to mid 2006. I note the Council's concern that this documentary evidence comprises invoices, rather than delivery notes and, whilst the address stated on them is the appeal property, this does not mean the goods were delivered there. The appellant said he did not generally keep delivery notes and, as his accountant, Mr Iodice said it was more important to keep invoices. Furthermore, whilst the Council points to a hand written note on one invoice which says "Del to Windsor Road", this could well suggest that all the other invoices which do not bear such a note relate to deliveries made to the invoice address, namely the appeal property. In addition, Mr Beaumont's letters to the Council dating from 2001 and 2012 also indicate that condition 3 had been breached from 1997.
19. To the extent that some of the appellant's business activities may have been conducted from Windsor Road and/or Winship Road, that is not relevant to whether condition 3 has been breached. The appellant does not need to prove that the appeal property was his sole place of business. Similarly, changes in the structure of the appellant's business, as a result of bankruptcy or otherwise have no bearing on this matter; I need only find that deliveries have been made to the appeal property in connection with the ice cream business throughout the period 8 November 2002 to 8 November 2012 inclusive. The evidence demonstrates that on the balance of probability. Furthermore, as a matter of fact and degree, I am satisfied that the deliveries were more than de minimis and there were not significant periods when deliveries were not being made. In making that judgement, I have taken account of the fact that there will inevitably be fewer deliveries in connection with an ice cream business during the winter months. On the evidence, I am unable to specify the number or frequency of deliveries which is lawful. Granting an LDC without quantifying this might suggest a 'free-for-all' but, in practice, deliveries will be limited by the number of ice cream vans, the size of the site and the size of the refrigerated unit, to which I now turn.
20. I note that the appellant's statutory declaration submitted in support of the LDC application exhibited a photograph of the refrigeration unit as it is now and stated that it had been on the property since 1997. In his proof, the appellant said that the unit in the photograph had only been on site since 2001 and that

it was vehicle mounted at first and then dismantled in 2010, when the vehicle was scrapped. Under cross examination, the appellant said the statement in the statutory declaration was an error. Although he had a refrigeration unit on a trailer from 1997, the one pictured was not present until 2001. The statutory declaration submitted by Mrs Coppolaro did say that the unit was on site from 2001, but dismantled from the vehicle in 2010. The contradiction in the appellant's own evidence is unfortunate, but it would appear to have been an error.

21. Mr Tanzarella said that he delivered to the appeal property from 2000, when and there was a refrigeration unit on a trailer the site in 2000, but this was changed to the current one after a year or so. He said that, when he delivered items he put them in the refrigerated unit. This is consistent with the appellant's evidence at the Inquiry and Mr Tanzarella also confirmed that the unit was dismantled in 2010. It was not put to him that he was mistaken or lying about this aspect. Further statutory declarations from Duncan Bennett (managing director of Bennetts Foods (Worcester) Ltd), Ian Knights (director of Pro-lec Electrical Solutions Ltd, formerly of Ian Knights Electrical Contractors) and Ian Ling (director of ISL Refrigeration Ltd) are also relevant on this point. Mr Bennett says he supplied the refrigerated unit in the spring of 2002 and, whilst it was originally vehicle mounted, it is nonetheless the same unit in the same location. Mr Knights says that, between November 2001 and January 2002, he installed the three phase electricity supply for the refrigeration unit, which was vehicle mounted at the time. Mr Ling says he has been carrying out regular maintenance and repair to this refrigeration unit since 2002. He confirms that it was vehicle mounted until about 2010.
22. There is a slight discrepancy in that Mr Bennett said in writing that the refrigerated unit was supplied in the spring of 2002, whereas the appellant said that it was 2001. The appellant suggested that Mr Bennett may have been looking at his records of when ownership transferred, rather than when delivery took place. This demonstrates the limitations of written evidence which cannot be tested. However, all of the sworn evidence, oral and written, on behalf of the appellant indicates that the current refrigeration unit, albeit initially vehicle mounted, has been stationed on the appeal site since the end of 2001 or the spring of 2002. Whatever the precise date, the appellant's evidence indicates that it has been there since well before 8 November 2002.
23. This of course is contradicted by the evidence of Mr Beaumont, who says that the refrigerated vehicle was brought onto the site in 2006, though he does confirm that the unit was dismantled from the vehicle about 18 months prior to May 2013. In his proof, the other neighbour, Mr Cinque said the refrigerated unit had only been on site for "a couple of years". In answer to my questions, he said in fact it had originally been there on a vehicle from about 2005/6. Aside from an obscure glazed window and the side panes of a box bay, none of the windows of Mr Cinque's house face the area where the refrigeration unit is located. There is also a boundary wall approximately 1.8m high and boundary planting. Mr Cinque's view is therefore limited, though not completely obscured.
24. Although there is some intervening boundary planting, Mr Beaumont's house includes first floor bedroom windows in the side elevation, overlooking the area where the refrigerated unit is located. The conflict between his evidence and that of the appellant and his witnesses is therefore difficult to resolve. I do not

believe that Mr Beaumont lied about the time when the refrigerated unit came on site. Although aspects of his evidence were confusing, I am sure that he gave an honest account, to the best of his recollection. However, as indicated, he was working abroad a great deal, for up to 9 months a year, until around 2006. Following his retirement, Mr Beaumont was able to take closer note of what was happening on the appeal site. I accept that, even before that, his family could have informed him of events on the site, but they were not at the Inquiry to clarify the position.

25. In any event, aside from Mr and Mrs Coppolaro's own evidence, sworn written evidence from people who separately supplied and maintained the refrigeration unit and provided it with an electricity supply is compelling. The oral evidence on oath from Mr Tanzarella, who delivered goods to the site and personally loaded them into the current refrigeration unit from 2001 is also convincing and was not challenged by the Council. Mr Beaumont and Mr Cinque can be forgiven for being mistaken over the date of arrival of the refrigeration unit. If the evidence of the appellant and his witnesses were to be set aside, that would suggest that there had been a conspiracy to lie on oath. I am not persuaded that this is the case and, for the reasons given, I prefer their evidence and I am satisfied on the balance of probability that the refrigeration unit was stationed on the appeal site from spring 2002 at the latest. Although the appellant acknowledged that, when it was still vehicle mounted, he occasionally took the refrigerated unit out to collect ice cream, I am satisfied that these were de minimus interruptions in the continuity of the use.
26. As I am concerned with the use of land, it is not the specific refrigerated unit that is relevant. However, I will indicate that the stationing of a refrigerated unit of the size currently on site, or smaller, is lawful. This will not operate as a condition and does not necessarily indicate that the stationing of a larger unit would not be lawful. It merely sets a base line against which the materiality of any future change could be assessed.

### **Overall conclusions**

27. For the reasons given and having regard to all other matters raised, I conclude on the main issue that the appellant has proved on the balance of probability that the use of the property as a dwellinghouse and: (i) for the storage of up to 3 ice cream vans for commercial purposes, in breach of conditions on the 1997 permission; and (ii) for the acceptance of deliveries in connection with the ice cream business, in breach of conditions on the 1997 permission; and (iii) for the stationing of a refrigerated storage unit, all commenced on or before 8 November 2002 and continued for 10 years after commencement. In relation to (i) and (ii), the appellant has also proved on the balance of probability that the relevant conditions were still being breached when the LDC application was submitted on 8 November 2012.
28. Accordingly, the Council's refusal of the LDC was not well founded and I will allow the appeal. For the reasons given, I will grant an LDC limited to breaches of the relevant conditions and use for the stationing of a refrigerated storage unit. It will not encompass a more wide ranging B1 type business use.

**Decision**

**Appeal Ref: APP/Q0505/X/13/2193066**

29. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the existing use and matters constituting a failure to comply with conditions which are considered to be lawful.

*J A Murray*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Philip Kratz BA(Hons) Solicitor LMRTPI	Instructed by the appellant
He called	
Toni Coppolaro	Appellant
Tracy Coppolaro	Appellant's wife
Givanni Iodice	Appellant's accountant
Pasquale Tanzarella	Supplier

### FOR THE LOCAL PLANNING AUTHORITY:

Penny Jewkes	Non practising barrister, employed by Cambridge City Council
She called	
Catherine Linford BA(Hons), MSc MRTPI	Senior Planner, Cambridge City Council
Claudio Cinque	Neighbour
Terry Beaumont	Neighbour

## **DOCUMENTS SUBMITTED AT THE INQUIRY**

- 1 Letter from Terry Beaumont to the Council referred to in the letter from Sarah Dyer dated 12 November 2012, which was submitted with the Appeal Questionnaire
- 2 Application plan for planning permission Ref C/97/0695/FP
- 3 Invoice dated 9 March 2001 for Vanilla Liquid Mix
- 4 Norwich Union renewal schedule 13 April 2007
- 5 Reliance Garage list of diesel purchases April 2003
- 6 Letter from Slade Edwards & Co insurance brokers 12 October 2012
- 7 Design and Access Statement dated August 2012 submitted with the application to amend conditions on planning permission Ref C/97/0695/FP
- 8 Closing submissions for the Council
- 9 Closing submissions for the appellant
- 10 Appellant's costs application
- 11 E-mail correspondence between the appellant's solicitor and the Council 30 November 2012; 4 December 2012, 4 - 6 December 2012; 2 & 3 January 2013





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# Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191  
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)  
ORDER 2010: ARTICLE 35

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**IT IS HEREBY CERTIFIED** that on 8 November 2012 the use and matters constituting failures to comply with conditions or limitations subject to which planning permission has been granted all described in the First Schedule hereto, in respect of the land specified in the Second Schedule hereto and edged and hatched in black on the plan 'A' attached to this certificate, were lawful within the meaning of section 191(2) and (3) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The time for enforcement action had expired.

Signed

*J A Murray*

Inspector

Date: 23 July 2013

Reference: APP/Q0505/X/13/2193066

## **First Schedule**

The use of the property as a dwellinghouse and: (i) for the storage of up to 3 ice cream vans for commercial purposes in the garage referred to in conditions 2 and 4 of planning permission reference C/97/0695/FP dated 20 August 1997 (the 1997 permission) and shown cross-hatched in black on the plan 'B' attached to this decision, but with the garage doors open, in breach of conditions 1, 2 and 4 of the 1997 permission; (ii) for the acceptance of deliveries in connection with the ice cream business, in breach of condition 3 of the 1997 permission; and (iii) for the stationing of a refrigerated storage unit, of a size equivalent to or smaller than the unit stationed on the site on 8 November 2012, as shown on the photograph attached to this decision, and located between the dwelling and the garage as extended.

## **Second Schedule**

Land at 27 Babraham Road, Cambridge, CB2 0RB



NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use and matters constituting a failure to comply with any condition or limitation subject to which planning permission has been granted described in the First Schedule taking place on the land specified in the Second Schedule were lawful, on the certified date and, thus, were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use and matters described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use or matter which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.



## Plan

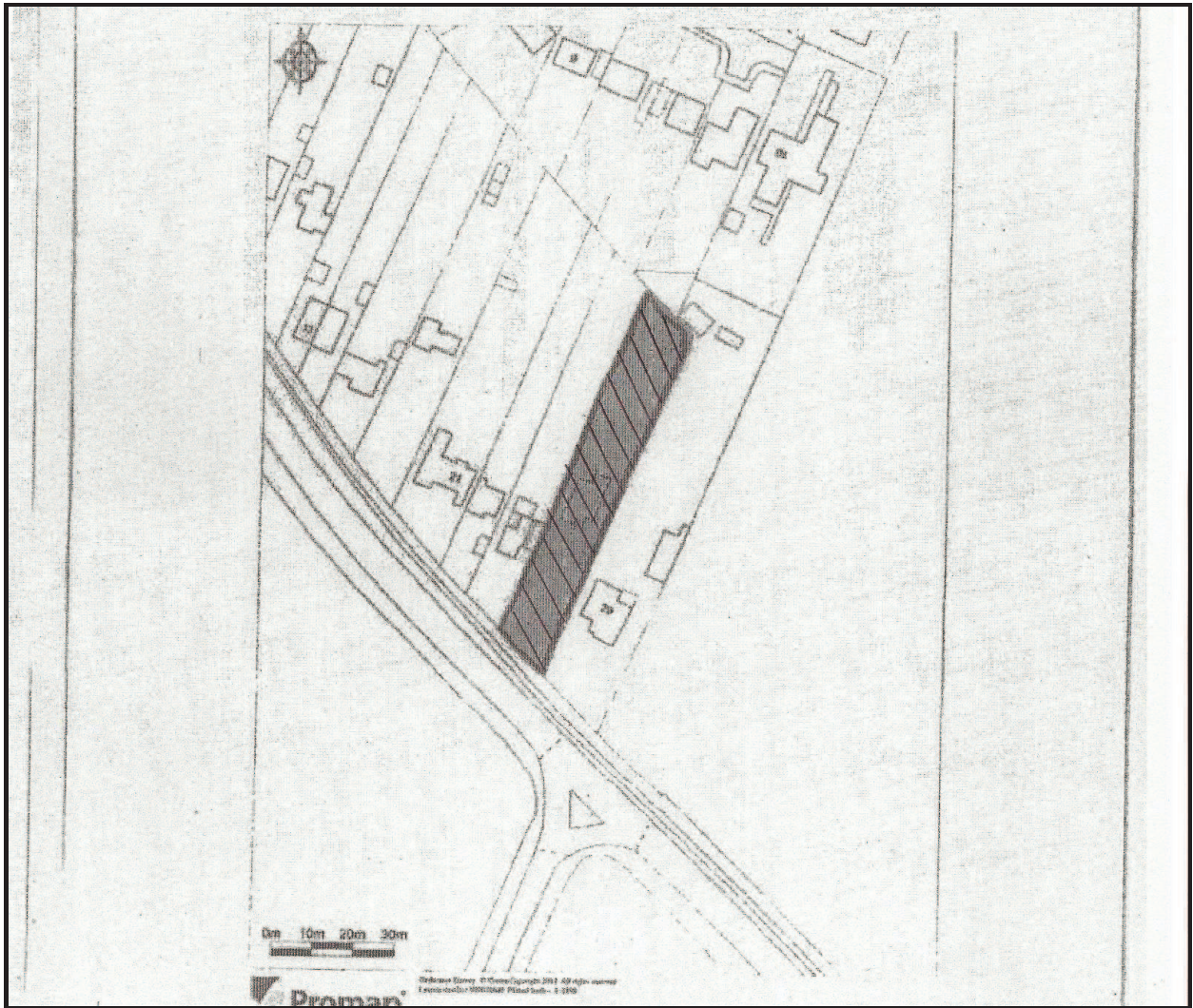
This is the **plan 'A'** referred to in the Lawful Development Certificate dated: 23 July 2013

**by John Murray LLB, Dip.Plan.Env, DMS, Solicitor**

**Land at: 27 Babraham Road, Cambridge, CB2 0RB**

**Reference: APP/Q0505/X/13/2193066**

Scale: DO NOT SCALE





# Plan

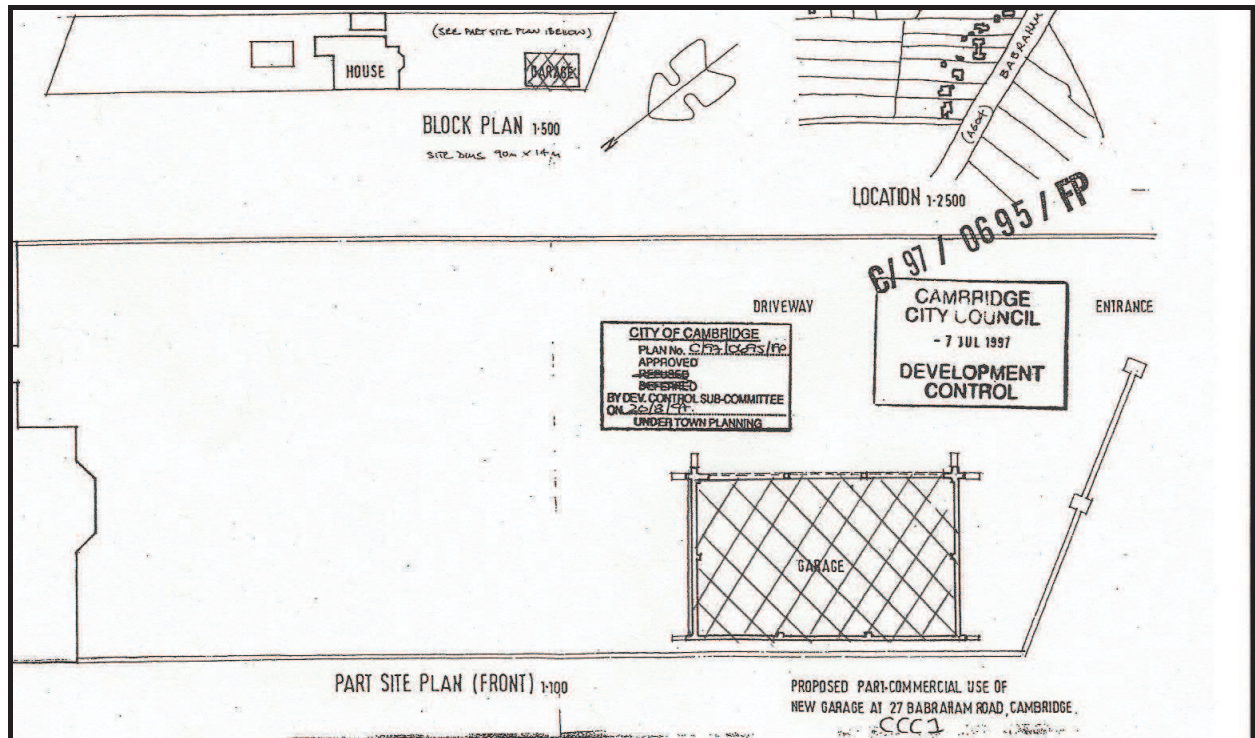
This is the **plan 'B'** referred to in the Lawful Development Certificate dated: 23 July 2013

by **John Murray LLB, Dip.Plan.Env, DMS, Solicitor**

**Land at: 27 Babraham Road, Cambridge, CB2 0RB**

**Reference: APP/Q0505/X/13/2193066**

Scale: DO NOT SCALE







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## Photograph

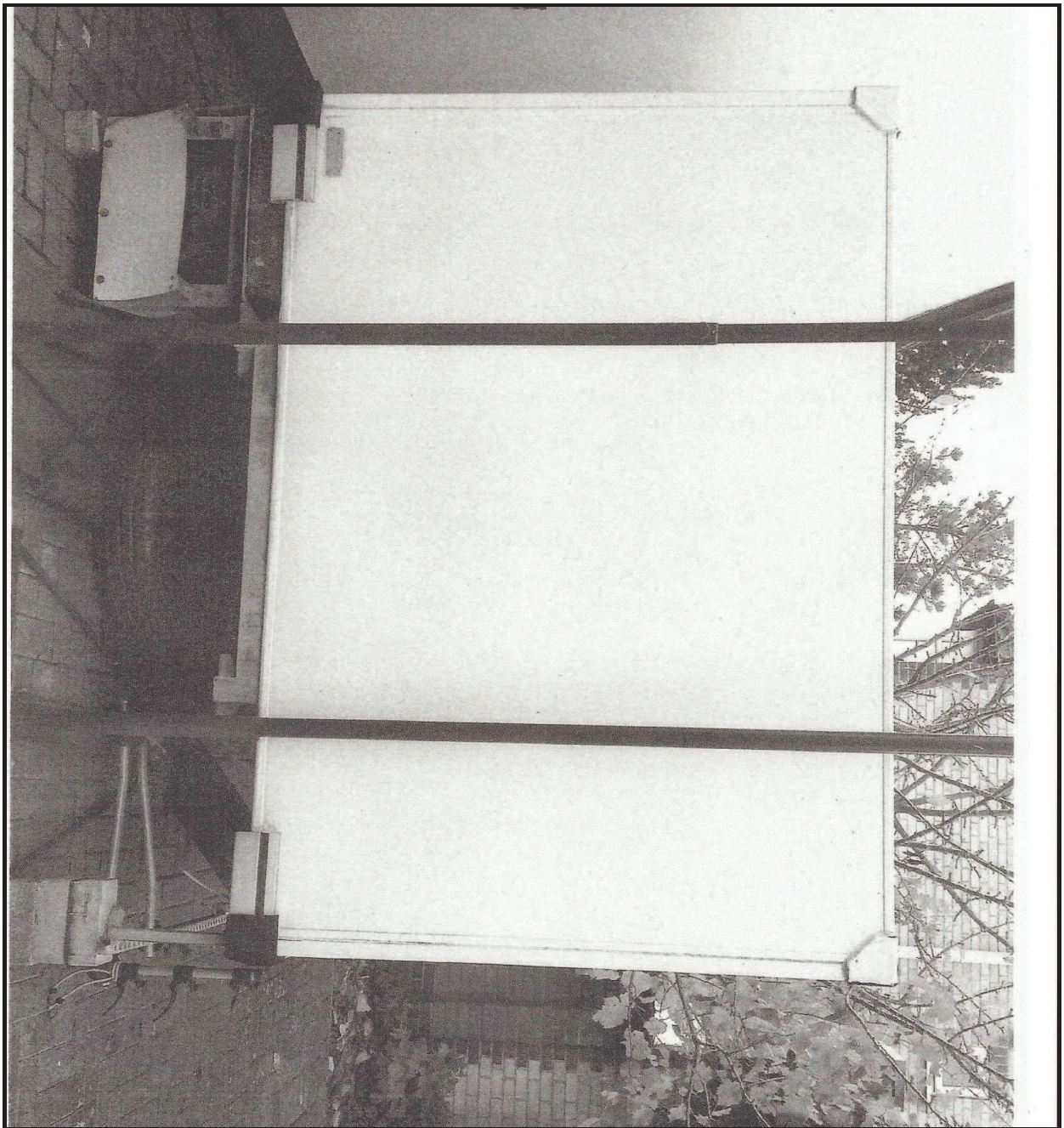
This is the photograph referred to in the Lawful Development Certificate dated: 23 July 2013

**by John Murray LLB, Dip.Plan.Env, DMS, Solicitor**

**Land at: 27 Babraham Road, Cambridge, CB2 0RB**

**Reference: APP/Q0505/X/13/2193066**

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# Cambridge City Council

## Note on the Planning Status of 27 Babraham Road Cambridge

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### Purpose of this note

This note is prepared by the local planning authority and is intended to set out the Council's current view of the lawful planning use and activities that can take place at 27 Babraham Road Cambridge.

The Council recognises that a lawful mixed use exists at 27 Babraham Road. This note will set out the scale and nature of the business activities within the mixed use that the Council considers are commensurate with the lawful use.

### The lawful use of 27 Babraham Road

The lawful use of the property, 27 Babraham Road is as a dwelling house and for the storage of up to three ice cream vans for commercial purposes in the garage which is shown cross hatched on the attached plan ("B")<sup>1</sup>. (This does not include the 2 bay car port extension to the garage built subsequent to permission C/01/0558<sup>2</sup>). The vans may be stored in the garage with the doors open and deliveries in connection with the ice cream business may be made to the property. A refrigerated storage unit of a size similar to or smaller than that shown in the attached photo<sup>3</sup> and located between the dwelling and the extended garage is also lawful.

The local planning authority takes the view that the current lawful use<sup>4</sup> provides for no more than three ice cream vans, owned and operated in association with the residential occupation of 27 Babraham Road to be stored in the garage at the property when not in use. The Council considers this means they can traverse the driveway and hard standing areas that provide access to the garage where they are permitted to be stored. It does not provide for them to be stored/stationed outside the garages or anywhere else on the property when not in use. The Council also takes the view that the vehicles can only be outside the garages at the property when 'in use', only for the time it takes to move them into and out of the garages at the reasonably recognisable start and end of business trading periods.

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<sup>1</sup> From Planning Permission ref: C/97/0695/FP and Planning Inspector Decision Letter 23/7/13. Ref: App/Q0505/X/13/2193066

<sup>2</sup> Paragraph 14 Planning Inspector Decision Letter 23/7/13. Ref: App/Q0505/X/13/2193066

<sup>3</sup> Planning Inspector Decision Letter 23/7/13. Ref: App/Q0505/X/13/2193066

<sup>4</sup> Planning Inspector Decision Letter 23/7/13. Ref: App/Q0505/X/13/2193066



The council takes the view that it is lawful for the restocking of the ice cream vans to happen when the ice cream vans are not in use at a time of day commensurate with the usual business trading hours for this type of business. The lawful use does not extend to the areas outside of the garages so by implication does not include use of these areas for the re-stocking or stationing of ice cream vehicles.

Likewise the delivery of any stock reasonably associated with three ice cream vans is interpreted as being lawful to happen at the property only for the minimum reasonable time to unload stock related deliveries and at times and frequencies considered reasonable in relation to the scale and type of lawful business activity being serviced from the up to three vehicles stored at this site<sup>5</sup>.

The lawful use does not provide for the manufacturing of ice cream or other products anywhere on the premises. Nor the provision of or sale to third parties of ice-cream and refrigerated products or soft drinks etc.

There is no permission or lawful use for the storage/stationing of a hot potato cart at the property<sup>6</sup> and this is not considered to be an ancillary storage activity so is not lawful.<sup>7</sup>

The Council will review this position from time to time and may reconsider this position in the light of new evidence or material that comes forward.

Patsy Dell

Head of Planning Services

29/11/2013

Attachments:

Planning Appeal Decision letter: App/Q0505/X/13/2193066

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<sup>5</sup> Paragraph 19, Planning Inspector Decision Letter 23/7/13. Ref: App/Q0505/X/13/2193066

<sup>6</sup> Paragraph 9 Planning Inspector Decision Letter 23/7/13. Ref: App/Q0505/X/13/2193066

<sup>7</sup> The Planning Service has to report back to the Council's South Area Committee on the planning situation at the site and any outstanding unlawful activities at the site will need to be considered at that time.