



SOUTH AREA COMMITTEE



AGENDA

To: City Councillors: Ashton (Chair), Meftah (Vice-Chair), Avery, Birtles, Blackhurst, Dryden, McPherson, Moore and Pippas

County Councillors: Ashwood, Crawford and Taylor

Dispatched: Friday, 13 June 2014

Date: Monday, 23 June 2014

Time: 7.00 pm

Venue: Meeting Room - CHVLC - Cherry Hinton Village Leisure Centre

Contact: James Goddard

Direct Dial: 01223 457013

- 1 **ELECTION OF CHAIR AND VICE CHAIR - SAC** Committee Manager
- 2 **APOLOGIES FOR ABSENCE**
- 3 **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**.
- 4 **MINUTES** (*Pages 7 - 18*)
To confirm the minutes of the meeting held on 23 April 2014. (*Pages 7 - 18*)
- 5 **MATTERS AND ACTIONS ARISING FROM THE MINUTES**
- 6 **OPEN FORUM**
Refer to the 'Information for the Public' section for rules on speaking.
- 7 **POLICING & SAFER NEIGHBOURHOODS** (*Pages 19 - 28*)

8 LOCAL S106 PRIORITY PROJECTS - UPDATE

9 ENVIRONMENTAL IMPROVEMENT PROGRAMME - SAC
(Pages 29 - 52)

Appendix 1 for Full Details of Central Government Planning Guidance

10 ENFORCEMENT ITEMS

10a 27 Babraham Road Update *(Pages 63 - 100)*

10b 27 Babraham Road Enforcement *(Pages 101 - 136)*

11 PLANNING APPLICATIONS

11a 14/0356/FUL - Land between 2 and 3 Shaftesbury Road
(Pages 137 - 178)

11b 14/0208/FUL - 38 Almoners Avenue *(Pages 179 - 216)*

11c 14/0272/FUL - 66-68 Hartington Grove *(Pages 217 - 242)*

11d 14/0754/FUL - 12A Drayton Close *(Pages 243 - 254)*

11e 14/0287/FUL - 29 Fernlea Close *(Pages 255 - 266)*

12 GENERAL ITEMS

12a 14/0020/FUL -33 Queen Ediths Way *(Pages 267 - 270)*

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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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.

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

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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.

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SOUTH AREA COMMITTEE23 April 2014
7.00 - 9.45 pm**Present****Area Committee Members:** Councillors Ashton (Chair), Meftah (Vice-Chair), Birtles, Blackhurst, Dryden, McPherson, Pippas and Swanson**Area Committee Members:** County Councillors Ashwood, Crawford and Taylor

Councillors Crawford and Taylor left after the vote on item 14/28/SAC

Councillor Ashwood left after the vote on item 14/29/SACb

Officers:

City Development Manager: Sarah Dyer

Principal Planning Officer: Toby Williams

Operations and Resources Manager: Jackie Hanson

Committee Manager: James Goddard

Other Officers in Attendance:

Cycling Projects Team Leader (County): Mike Davies

FOR THE INFORMATION OF THE COUNCIL**14/22/SAC Apologies for Absence**

Apologies were received from Councillor Stuart.

14/23/SAC Declarations of Interest

Name	Item	Interest
Councillors Ashwood, Blackhurst & Meftah	14/27/SAC	Personal: Member of Trumpington Resident's Association.
Councillor Ashton	14/27/SAC	Personal: Chairman of Cherry Hinton Resident's Association
Councillors Crawford, Dryden & McPherson	14/27/SAC	Personal: Member of Cherry Hinton Resident's Association.

Councillor Dryden	14/27/SAC	Personal: Member of Friends of Cherry Hinton Hall.
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14/24/SAC Minutes

The minutes of the 3 March 2014 meeting were approved and signed as a correct record.

14/25/SAC Matters and Actions Arising from the Minutes

14/17/SAC Open Forum “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.”

The Interim Head of Services, Streets and Open Spaces has contacted residents to explain how the matter will be dealt with.

14/26/SAC Open Forum

- 1. Mr Lowson raised the following points on behalf of Accordia residents:**
 - **A Conservation Area consultation was pending.**
 - **Accordia and nearby residents need safe and attractive cycle corridors to the city centre.**
 - **Expressed concerns regarding:**
 - **Safety of cycle route users.**
 - **Lack of join up between various cycle schemes. The proposals for traffic and road safety improvements on Trumpington Road, between Chaucer Road and Bateman Street, would only affect a small area; and not contribute to safer cycle routes or address safety concerns at junctions affected.**
 - **If more cyclists visit Cambridge as expected, the need for safe cycle routes will become more pressing.**

Councillor Ashton said a response would be given under agenda 7 (minute item 14/28/SAC).

- 2. Mr Carpen asked for an update on letters sent to local schools and colleges by the South Area Committee (SAC) Chair inviting them to engage in local democracy.**

Councillor Ashton said he had received acknowledgements to his letters, but no other responses.

- 3. Mr Carpen asked what councillors will do to help Netherhall School improve following a recent inspection.**

Councillor Swanson said that she had emailed Netherhall School two months ago on behalf of residents, but had received no response.

Councillor Ashton (referring to questions 2 and 3) said schools needed to respond to open a dialogue.

ACTION POINT: Councillor Ashton to write to Netherhall School to ask how South Area Committee and the community can support the school.

- 4. Mr Carpen asked for SAC's comments on Councillor Herbert's remarks at 10 April 2014 East Area Committee on the importance of engaging young people in democracy.**

Councillor Ashton said that SAC would not comment on views expressed at East Area Committee. SAC Councillors had tried to engage local schools and colleges, and were willing to do so if they received a formal invitation. SAC were happy to take up Mr Carpen's offer to speak with him at schools.

Councillor Taylor said that county council officers would attend Cambridge Regional College in future to speak to students.

Councillor Birtles endorsed Mr Carpen's comment that social media is another way to engage children and young.

Councillor Dryden said a number of councillors were school governors, so understood their issues.

- 5. Mr Carpen said he attended various resident association meetings around the city and noted the following issues:**

- It was hard to engage people in the community as knowledge on how to use social media etc was variable. This meant people were losing out on knowledge sharing.
- It was hard to reach out to residents who commuted. This could be done electronically but was (generally) more difficult face to face.

Mrs Minns (member of public) said that people used digital media (eg email), but not necessarily social media. People would welcome education on how to use social media. People needed enough money to buy equipment in order to use social media, otherwise they could not interact.

Mr Carpen felt there was a cultural divide between those who read/viewed on-line content, and those who created it.

- 6. Mr Butt referred to the management of the "Green Corridor" alongside the railway line (Clay Farm), with specific reference to habitats for birds. Mr Butt asked how red listed species would be protected.**

Councillor Blackhurst undertook to seek a response from Officers. He also said the issue would be discussed at the Southern Fringe Forum being held 3 June 2014 at Trumpington Meadows Primary School.

14/27/SAC Area Committee Grants - SAC 23/04/14

The Committee received a report from the Operations & Resources Manager.

Members considered applications for grants as set out in the Officer's report, and 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	£5,000

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

Budget available	25,984
Total awards	25,194
Budget remaining	790

Following discussion, Members **unanimously resolved** to agree the proposed awards detailed in Appendix 1 of the Officer's report and summarised in the table above.

14/28/SAC SAC - Cycle City Ambition Segregated Cycle Lane Scheme on Trumpington Road

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

The report informed SAC 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 2014.

The Cycling Projects Team Leader circulated a map of the area affected.

The Committee raised the following concerns in response to the report:

- i. A lot of money was being spent on a project that was unlikely to solve many problems.
- ii. The impact on local communities due to the relocation of the bus stop and loss of parking spaces near the Botanic Gardens.
- iii. Lack of join up between infrastructure projects.
- iv. Cyclists riding on the pavement due to their road safety concerns, and the impact on pedestrians.

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

- i. Funding for cycle lane work came from the Department for Transport (DfT).
- ii. The relocated bus stop would be sited close to the Botanic Gardens.

Members of the public made comments and asked questions, as set out below.

1. Mr Lawson asked how the Trumpington Road scheme fitted into a wider plan of city cycle routes.

The Cycling Projects Team Leader said DfT timescales limited when the County Council could apply for, and use funding. The County Council had to undertake projects that were practicable to complete within timescales allowed by DfT, or risk losing the funding. As such there was no overarching scheme as funding was bid for on an adhoc basis, so individual projects could be completed.

2. Mr Lucas-Smith (Cambridge Cycling Campaign) made the following comments:

- **Raised safety concerns regarding cycling near the Botanic Gardens.**
 - **The DfT has a lot of short term funding, so the County Council has to bid to use it when it can.**
 - **People cycling on the pavement showed that they had road safety concerns.**
 - **Supported a Dutch style layout.**
- 3. Mrs Higgs (North New Town Residents Association) raised the following points:**
- **North New Town Residents have not been consulted on proposals affecting local schools.**
 - **Raised safety concerns regarding the Bateman Street junction.**
 - **Suggested the Trumpington Road scheme would have little impact on the majority of people travelling to the New Town area eg commuters.**
 - **Asked for a traffic impact assessment to be undertaken on the cycle lane scheme. Suggested there was little point in undertaking the scheme if it made minor safety impact improvements in Trumpington, but caused greater problems elsewhere due to the cumulative impact on traffic flow and parking.**
 - **Suggested the scheme would exacerbate existing traffic flow and parking issues in the New Town area.**

The Cycling Projects Team Leader apologised that residents were not included in the planning day with schools and undertook to liaise with Mrs Higgs after the meeting.

- 4. Mr Butt raised the following points:**
- **Supported Mrs Higgs' comments.**
 - **Queried the impact of the cycle scheme on residents.**
 - **More people could be attracted to the area if cycle lanes were improved.**
 - **Parking is an important consideration when undertaking work.**
 - **Raised cycle safety concerns.**
 - **Cycle infrastructure projects should join up, not be undertaken piecemeal.**
- 5. Mr Carpen raised the following points:**

- **Raised concerns regarding the consultation process to date.**
- **More ‘big picture information’ was required, such as a strategy/map to join up transport issues, instead of undertaking work piecemeal.**
- **Undertook to raise concerns regarding short time frames to use DfT funding with civil servants.**

Councillor Ashton encouraged people to respond to the County Council consultation and reminded SAC delegates the document before them tonight was an introduction to the process.

14/29/SAC Planning Applications

14/29/SACa 13/1685/FUL - 241 Hills Road

The Committee received an application for full planning permission.

The application sought approval for 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.

Ms Carpenter (Applicant's Agent) addressed the Committee in support of the application.

The Committee:

Resolved (4 votes to 4 – and on the Chair's casting vote) to reject the officer recommendation to refuse the application.

Resolved (4 votes to 4 – and on the Chair's casting vote) to approve the application contrary to the officer recommendation, subject to conditions delegated to officers, for the following reason:

In considering the scheme and the officer recommendation to refuse the proposal, on balance, South Area Committee did not consider that the proposal would be harmful to either the character or appearance of the surrounding area or significantly harmful to residential amenity to warrant a refusal of planning permission.

At the request of the Principal Planning Officer, **resolved unanimously** to delegate authority to Officers to append appropriate conditions and a S106 agreement.

14/29/SACb 13/1739/FUL - 2 and 2A Bishops Road

The Committee received an application for full planning permission.

The application sought approval for 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.

The Committee received a representation in objection to the application from Mrs Middleton.

The representation covered the following issues:

- i. The development would be more appropriate for the site if the existing dwelling was replaced with a bungalow instead of a house.
- ii. Raised the following specific concerns:
 - The development will exacerbate existing parking and traffic flow problems.
 - Overbearing design.
 - Overdevelopment of site.

Mr Anderson (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. Took issue with the Highways Engineer's view that there were no safety issues.
- ii. Access to the development was close to Shelford Road, which was a busy route.
- iii. The development would exacerbate existing parking and traffic flow problems.

The Committee:

Resolved (by 6 votes to 1 with 1 abstention) 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.

14/29/SACc 13/1836/FUL - Land to the r/o 1-8 Anstey Way

The Committee received an application for full planning permission. The Principal Planning Officer referred to representations on the planning amendment sheet.

The application sought approval for erection of two 4-bed houses.

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

The representation covered the following issues:

- i. Suggested that amendments made to the design since the last iteration were superficial and cosmetic.
- ii. Raised the following specific concerns:
 - The design would stand out, not blend in with neighbours.
 - The buildings would look larger than neighbours' properties.
 - The application is an overdevelopment of the site.
 - The design was too high, imposing, unsympathetic to neighbours and out of character with the area.

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

The Committee:

Resolved (unanimously) 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.

14/29/SACd 13/1863/FUL - 68 Mill End Road

The Committee received an application for change of use.

The application sought approval for change of use from C3 dwelling to house in multiple occupation.

Ms Young (Applicant's Agent) addressed the Committee in support of the application.

The Committee:

Resolved (unanimously) 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.

14/30/SAC Enforcement Items

14/30/SACa 27 Babraham Road Update

The Committee received an update report 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).

Site: 27 Babraham Road, Cambridge

Breach: Breach of planning conditions and material change of use.

The report sought authority as listed against 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.

The Committee:

Resolved (unanimously) to close the meeting at 9:45 pm and defer considering applications regarding 27 Babraham Road until a future date due to a first aid incident.

14/30/SACb 27 Babraham Road Enforcement

This application was not considered due to a first aid incident.

The meeting ended at 9.45 pm

CHAIR

Neighbourhood profile update Cambridge City South Neighbourhood

June 2014



**Steve Poppitt, Safer
Neighbourhoods
Inspector**

**Lynda KilKelly, Safer
Communities Manager,
Cambridge City Council**



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1 INTRODUCTION

Aim

The aim of the Neighbourhood profile update is to provide an overview of action taken since the last reporting period, identify on-going and emerging crime and disorder issues, and provide recommendations for future priorities and activity in order to facilitate effective policing and partnership working in the area.

The document should be used to inform multi-agency neighbourhood panel meetings and neighbourhood policing teams, so that issues can be identified, effectively prioritised and partnership problem solving activity undertaken.

Methodology

This document was produced using the following data sources:

- Cambridgeshire Constabulary crime and anti-social behaviour (ASB) incident data for February to May 2014, compared to the previous reporting period (October 2013 to January 2014) and the same reporting period in 2013.
- City Council environmental services data for the period February to May 2014, compared to the same reporting period in 2013; and
- Information provided by the Safer Neighbourhood Policing team and the City Council's Safer Communities team.

2 CURRENT PRIORITIES

At the South Area Committee meeting of 3 March 2014, the committee recommended adopting the following priorities:

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

The Neighbourhood Action Group, at its meeting of 12 March 2014, assigned the actions to be taken and the lead officers for each of the priorities. The tables below summarise the action taken and the current situation.

Combat the supply of drugs in South area	
Objectives	<ul style="list-style-type: none"> □ Target individuals and organised groups travelling to the South area of Cambridge to engage in the unlawful supply of controlled drugs, particularly Class A drugs; and □ Target the supply of drugs, particularly Class A drugs, by individuals resident in the South area.
Action Taken	<p>In the last four months, the South area team, working with the East area team, have executed 3 search warrants under the Misuse of Drugs Act, as well as supporting other warrants in the East area. This has resulted in the seizure of both Class A and Class B drugs.</p> <p>As a result of these warrants individuals have been arrested and dealt with for being concerned in the supply of Class A drugs, the production of Class B drugs and the possession with intent to supply of both Class A and Class B drugs.</p> <p>In the same period, 28 stop/searches under the Misuse of Drugs Act have been conducted resulting in the confiscation of cannabis from 7 individuals, and the arrest of 2 individuals for possession with intent to supply and for being concerned in the supply of controlled drugs.</p>
Current Situation	<p>Intelligence and information from the public still continues to come to the attention of the problem solving teams working across the city. This indicates there are still numerous individuals in the South area who remain active in the supply of controlled drugs.</p> <p>Many of those arrested normally reside outside Cambridge and are coming to Cambridge purely to take part in their criminal activity.</p>

	The tactic of the police is to make Cambridge as hostile an environment as possible for the intention to supply drugs.
Lead Officer	Sergeant Jim Stevenson, Cambridgeshire Constabulary.

Target the increase in dwelling burglary in the Cherry Hinton area	
Objectives	<ul style="list-style-type: none"> □ Reduce the incidents of dwelling burglary in the Cherry Hinton area; and □ Increase the awareness of local residents about the risks of becoming a victim of crime, and inform them of suitable simple crime prevention measures they can take.
Action Taken	<p>The dwelling burglary prevention work undertaken by the South area team was not conducted in isolation but in support of the work of other departments in the police who deal with dwelling burglary and offenders on a daily basis. Detectives from Parkside attend the scene of and investigate all burglaries and the Integrated Offender Management team maintains ownership of the management and monitoring of known repeat offenders.</p> <p>The main tactic employed by the South team in terms of prevention is known as “cocooning”. This is basically an intensive crime prevention response to crimes of dwelling burglary. Those whose property are near to the burgled dwelling are visited, reassured and given practical crime prevention advice on how to reduce the risk of becoming a victim. It is based on evidence obtained from research conducted under the supervision of the Jill Dando Institute for Security and Crime Science. This has been trialled by other police forces in the Eastern region.</p> <p>Cocooning activity around dwelling burglaries in the Cherry Hinton Area has taken the form of 19 hours of visits to residential premises around the victims’ addresses. The South team has visited 553 residential premises, delivered 305 leaflets about reducing the risks of being a victim of burglary, and spoke to 248 residents to deliver appropriate crime prevention advice.</p>
Current Situation	Dwelling burglary in the Cherry Hinton area is down compared to the previous reporting period, but has seen an increase compared to the same period last year. The cocooning work has been well-received by residents and has now been adopted as standard practice for all dwelling burglaries.

Lead Officer	Sergeant Jim Stevenson, Cambridgeshire Constabulary
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Target the increase in thefts from motor vehicles in the Trumpington area	
Objectives	<ul style="list-style-type: none"> □ Reduce the theft from motor vehicles in the Trumpington area; and □ Increase the awareness of local residents and local businesses about the risks of becoming a victim of crime, and inform them of suitable simple crime prevention measures they can take.
Action Taken	<p>Since the last meeting, around 17 hours of high-visibility patrols, mostly carried out by Police Community Support Officers (PCSOs), have been undertaken around the principle hotspot areas for theft from vehicle offences.</p> <p>Messages to local residents, containing simple crime prevention advice to reduce the risk of being a victim of theft from motor vehicle, have been delivered via the eCops system as well as in local police surgeries and out on the street to motorists parking in high risk areas.</p> <p>Visits to the site by South area PCSOs where new homes are being constructed have been carried out. Developers have been encouraged to impress upon employees and those visiting the sites the need to secure their vehicles and contents.</p>
Current Situation	The number of theft from motor vehicle offences in Trumpington is down compared to the previous reporting period. There is a slight increase (4 offences) on the same reporting period from last year. An increase compared to 2013 was possibly due to the large number of homes, and therefore cars, being added to the ward by the Southern Fringe developments.
Lead Officer	Sergeant Jim Stevenson, Cambridgeshire Constabulary

3 PRO-ACTIVE WORK & EMERGING ISSUES

- The City Council's Safer Communities team, working in partnership with the police and other social landlords, continue to tackle a number of ASB issues in the South. Following significant incidents of ASB, a Notice of Seeking Possession was served on a City Homes tenant. One tenant has given an undertaking to comply with their tenancy agreement and on another case, parties have signed a Good Neighbour Agreement. One

tenant is due to be served a Notice of Seeking Possession for unlawful use of their property.

- The City Council's Safer Communities team is working with police street life officers in a number of areas where residents have reported a street life presence, as well as supporting agencies where vulnerable tenants are identified as needing help with managing their tenancies.
- The City Council's Safer Communities team, together with other partner agencies, was involved in the Hanover and Princess Court Community Clean Up Day on 17 May, organised by City Homes, as well as the opening of the new Community Centre there and the formation of a Residents' Association.
- There has been a slight rise in overall crime recorded in the South area. Trumpington and Queen Edith's wards have remained stable, with Cherry Hinton ward accounting for the majority of this increase. There is no particular pattern to the Cherry Hinton increase; the majority is accounted for by various types of thefts (though not shoplifting) across the ward.
- ASB for the South area has shown an increase by comparison to the previous reporting period. Cherry Hinton and Queen Edith's wards are relatively stable with the increase coming in Trumpington. This increase is linked to more street-based ASB (for example, begging) in the Station Road and Newtown areas. Action is already being taken in respect of this by the street-based ASB team. One of the main offenders, Mark Guy, has been given an ASBO to prevent this behaviour; one of his conditions is not to sit within 10 metres of a cash point machine and ask for money. Since the ASBO and increased police patrols begging activity has decreased.
- Dwelling burglary for the South area has remained stable by comparison to the previous reporting period. Cherry Hinton and Queen Edith's wards have both seen fewer offences. Trumpington has, however, seen an increase.
- Non-dwelling burglary for the South area has decreased to 17 offences by comparison to 25 in the previous reporting period.
- Theft from vehicle for the South area has decreased by 11 offences with reductions across all three wards.
- There have been good reductions in criminal damage across all wards.
- Violent crime remains stable.

- Cycle crime for the South area has remained stable by comparison to the previous reporting period. Cherry Hinton and Trumpington wards have both seen fewer offences. Queen Edith's ward has however seen a small increase.
- Cambridge police has drawn up a new service level agreement with Neighbourhood Watch and are seeking to build on the already good relationship with members to increase scheme numbers even more. Anyone interested in finding out more should visit www.cambsnhw.org.uk
- A meeting has already taken place with South area councillors, the police, City Council's Safer Communities team, one of the landowners and other agencies in respect of "Cambridge Lakes". A multi-agency action plan has been drawn up to combat the ASB associated with the area. Local residents will be informed of what action is planned.

ENVIRONMENTAL SERVICES DATA

Cherry Hinton

Abandoned vehicles

- ❑ February to May 2014: 7 reports, which included 7 vehicles not on site following inspection
- ❑ Hotspots: None
- ❑ February to May 2013: 6 reports

Fly tipping

- ❑ February to May 2014: 18 reports
- ❑ Hotspots: Colville Road (3)
- ❑ February to May 2013: 7 reports

Derelict cycles

- ❑ February to May 2014: 11
- ❑ Hotspots: None
- ❑ February to May 2013: 2

Needle finds

- ❑ February to May 2014: None
- ❑ Hotspots: None
- ❑ February to May 2013: None

Queen Edith's

Abandoned vehicles

- ❑ February to May 2014: 6 reports, which included
 - 4 vehicles not on site following inspection
 - 2 vehicles held pending further investigation
- ❑ Hotspots: None
- ❑ February to May 2013: 1 report

Fly tipping

- ❑ February to May 2014: 12 reports, which included 1 request for waste transfer documentation from trade offenders
- ❑ Hotspots: None
- ❑ February to May 2013: 4 reports

Derelict cycles

- ❑ February to May 2014: 4
- ❑ Hotspots: None
- ❑ February to May 2013: 2

Needle finds

- February to May 2014: None
- Hotspots: None
- February to May 2013: None

Trumpington

Abandoned vehicles

- February to May 2014: 5 reports, which included
 - 2 vehicles not on site following inspection
 - 1 CLE26 notice issued to an offender on behalf of the DVLA for not displaying a valid tax disc on a public highway
 - 2 vehicles held pending further investigation
- Hotspots: None
- February to May 2013: 6 reports

Fly tipping

- February to May 2014: 20 reports, which included 2 formal warning letters issued to domestic offenders
- Offences at Russell Street and Anstey Way accounted for the formal warning letters sent
- Hotspots: None
- February to May 2013: 9 reports

Derelict cycles

- February to May 2014: 11
- Hotspots: None
- February to May 2013: 11

Needle finds

- February to May 2014: 4
- Hotspots: Botanical Gardens (2); Coronation Street (2)
- February to May 2013: None

5 RECOMMENDATIONS

- Combat the supply of drugs in the South area
- Target dwelling burglary in the Cherry Hinton and Trumpington wards
- Target ASB associated with the “Cambridge Lakes” area



To: South Area Committee 23/06/2014

Report by: Simon Payne,
Director of Environment

Wards affected: Cherry Hinton, Trumpington, Queen Ediths

ENVIRONMENTAL IMPROVEMENT PROGRAMME

1.0 Executive summary

- This report requests that the Committee determine which of the proposed new EIP schemes are allocated funding as part of the 2014/15 Environmental Improvement Programme, from those listed in Appendix A of this report.

2.0 Recommendations

The South Area Committee is recommended:

- 2.1 To allocate funding of £4,500 for the annual provision and maintenance of 26 hanging baskets along Cherry Hinton High St.
- 2.2 To allocate the remaining £37,300 to the list of proposed projects in Appendix A of this report.
- 2.3 To approve the delivery of the minor traffic regulation orders listed in Appendix E, at an estimated cost of £6000, funded by the remainder of the South Area Committee 2011/12 joint minor highway works budget.
- 2.4 To approve those projects for implementation, subject to positive consultation where required and final approval by Ward Councillors.
- 2.5 To note the progress of existing schemes listed in Appendix C of this report.

3.0 Background

- 3.1 Initial feasibility work has been carried out on all of the schemes that have been suggested for the 2014/15 Environmental Improvement Programme (EIP).

- 3.2 The South Area Committee has an annual budget of £41,800 to allocate to schemes from its Environmental Improvement Programme Budget.
- 3.3 The table in Appendix A lists all of the schemes that could be feasibly delivered as part of this year's EIP Programme, should they be allocated funding by South Area Committee.
- 3.4 Further details of each proposed EIP scheme can be found in Appendix B of this report.

4.0 Background papers

None

5.0 Appendices

APPENDIX A

Summary of Feasible EIP Schemes for 2014/15.

APPENDIX B

Further Details of Feasible EIP Schemes.

APPENDIX C

Progress on Existing EIP Schemes.

APPENDIX D

EIP Eligibility Criteria.

APPENDIX E

Joint Minor Highway Works Traffic Orders Budget

6.0 Inspection of papers

To inspect the background papers or if you have a query on the report please contact:

Author's Name: Andrew Preston
Author's Phone Number: 01223 458234
Author's Email: andrew.preston@cambridge.gov.uk

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SUMMARY OF FEASIBLE EIP SCHEMES FOR 2014/15 - SOUTH AREA

No.	Scheme Title	Scheme Description	Promoted by	Ward	Estimated Budget £	Secured funding contributions £	EIP Allocation requested	Comments
S1	Norwich Street greening	Greening of Norwich Street. Six to eight parking bay markers where trees or potted plants might be situated with varying amounts of work or cost.	Andrew Blackhurst	Trumpington	21,000	-	21,000	High risk project. The nature of the environment would not readily suit the introduction of trees. Planters would have ongoing maintenance revenue implications.
S2	Gunhild Way - road widening	Widen the roads at both ends of the green near junction with Tillyard Way, to match the wooden rails, so that larger vehicles can service the houses the other side of the green without spoiling the grass.	Tim Moore	Queen Ediths	12,500	-	12,500	Low risk project. Similar to work undertaken in nearby Godwin Way last year.
	Wulfstan Way shopping area - verge protection	Placing posts on the Wulfstan Way side of the parking blocks, at the entry into the bay, will prevent large vehicles driving over the grass resulting in ruts.	Tim Moore	Queen Ediths	1,000	-	1,000	Low risk project. The small grassed areas around these bays are regularly over-run by parking vehicles. Wooden bollards would provide some protection to both grass and adjacent trees.

APPENDIX A

No.	Scheme Title	Scheme Description	Promoted by	Ward	Estimated Budget £	Secured funding contributions £	EIP Allocation requested	Comments
S4	Queen Ediths Way & Mowbray Rd verge repairs	Repair verges and consider widening splays of narrow drives to stop cars driving over verges.	George Pippas	Queen Ediths	50,000	-	25,000	Low to medium risk project. The verges along both routes are extensively over-run in particular areas. An allocation of £25,000 for each, along with potential Highway Authority and frontager contributions, should allow the most needy areas to be improved.
S5	Blinco Grove lamp posts	Paint replacement stainless steel lamp posts black as more in keeping with historic style.	Amanda Taylor	Queen Ediths	10,000	-	10,000	Medium risk project. These new columns are galvanised steel, with white plastic lanterns. Specific paint systems would be required and need maintenance, and access to undertake the work would be complex. The view of the owner of the lighting asset, Balfour Beatty, is also unknown. Difficult to estimate cost accurately at this stage.
S6	Red Cross Lane dropped kerb	Install dropped kerb at gate leading to Addenbrookes Hospital.	Amanda Taylor	Queen Ediths	3,000	-	3,000	Low to medium risk project. Relatively straightforward technically, but since there are limited highway rights there could be land ownership/legal and potentially tree root and service issues to overcome.

APPENDIX A

No.	Scheme Title	Scheme Description	Promoted by	Ward	Estimated Budget £	Secured funding contributions £	EIP Allocation requested	Comments
S7	Nightingale Rec bowling green	Turn bowling green into picnic area, orchard and children's veg patch as no longer used by bowling club.	Tim Moore	Queen Edith	8,000	-	8,000	It would seem that this area could be put to better use. Alternative options might be explored through independent led consultation (£3,000), with minimal works to make the area safe and accessible for public use costing a further £5,000.
Total							105,500	

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APPENDIX B – Details of Proposed Schemes

Scheme Number:	S1
Scheme Title:	Norwich Street greening
Scheme Description:	Greening of Norwich Street. Six to eight parking bay markers where trees or potted plants might be situated with varying amounts of work or cost.
Promoted by:	Andrew Blackhurst
Ward:	Trumpington
Estimated Budget:	£21,000
Risks to Delivery:	<p>HIGH RISK</p> <ul style="list-style-type: none"> - Highway Authority approval. - Road Safety Audit. - Insufficient space for tree planting. - Possible loss of parking bays. - Adjustments to TRO - Extensive consultation (objections that require determination) - Existing street furniture that requires clearances.
Eligibility:	<ul style="list-style-type: none"> - Direct and noticeable improvement to appearance of street - Publicly visible and accessible - Future maintenance costs determined by nature of planting - Potentially involve local people
Officer Comments:	<ul style="list-style-type: none"> • There are 6 existing build-out islands on Norwich Street. These have reflective bollards on them and some have road signs. These build-outs would need to be extended to accommodate trees/planting, resulting in a reduction in parking spaces. • Building frontages are close to the road here, and any planting would have to be scaled appropriately with the adjacent housing. A mixture of small tree planting and built planters might be most appropriate. • There is a risk that buried services and sub-surface road construction will be prohibitive to the success of this scheme. Any works carried out here also need to consider the requirements for highway drainage and levels. • There are over-head cables that need to be accommodated in the design at some of the locations. There is also evidence of a utility that runs directly through the build-out zones. It may be possible to work around these, but any future maintenance of the utility runs is likely to be damaging to the planting.
Promoter's Comments:	<p>Planting would positively contribute to aesthetics of street. Project involvement may provide useful focus for community building as perhaps residents might 'adopt a tree'.</p> <p>May need to take into consideration proposals for cargo bike parking which have been mooted for same street.</p>

Existing layout:



Scheme Number:	S2
Scheme Title:	Gunhild Way - road widening
Scheme Description:	Widen the roads at both ends of the green near junction with Tillyard Way, to align with the wooden rails, so that larger vehicles can service the houses the other side of the green without spoiling the grass.
Promoted by:	Tim Moore
Ward:	Queen Edith
Estimated Budget:	Approx. £12,500
Risks to Delivery:	LOW RISK <ul style="list-style-type: none"> - Highway Authority approval. - Minimal risk from buried services.
Eligibility:	<ul style="list-style-type: none"> - Direct, lasting and noticeable improvement to appearance of a street - Publicly visible and accessible - Low future maintenance costs - Possible opportunity for County maintenance contribution
Officer's Comments:	Includes 2 areas: either end where rear wheels of large vehicles over-run. Similar to work undertaken in nearby Godwin Way last year.
Promoter's Comments:	Scheme would make the area tidier, less unsightly, no puddles when it's wet. It also would be more functional.

Existing layout:



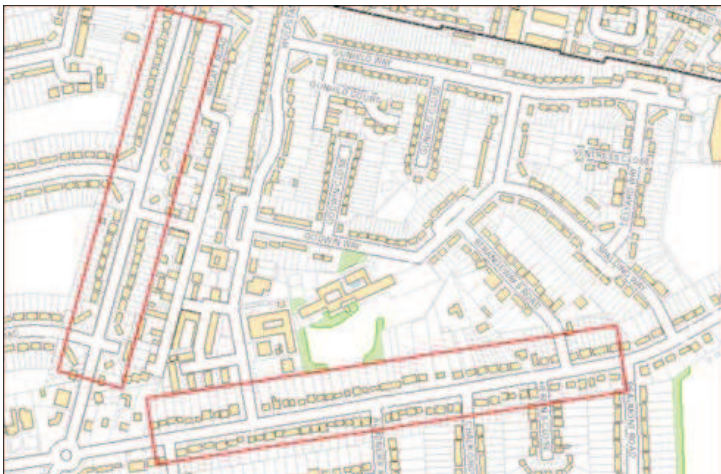
Scheme Number:	S3
Scheme Title:	Wulfstan Way shopping area - verge protection
Scheme Description:	Place posts on the Wulfstan Way side of the parking blocks, at the entry into the bay, to prevent large vehicles driving over the grass resulting in ruts.
Promoted by:	Tim Moore
Ward:	Queen Edith
Estimated Budget:	Approx. £1,000
Risks to Delivery:	LOW/MEDIUM RISK <ul style="list-style-type: none"> - Highway Authority approval - Tree roots and buried services - Narrow road makes turning movements difficult
Eligibility:	<ul style="list-style-type: none"> - Direct, lasting and noticeable improvement to appearance of a street / an area - Publicly visible and accessible - Ease and simplicity of implementation - Low future maintenance costs - Possible opportunity for County contribution
Officer's Comments:	There are about 6 spots around parking area where the verge is over-run. Wooden bollards would provide some protection to both grass and adjacent trees.
Promoter's Comments:	Residents commented that pillars/bollards/wooden columns should be placed at worst corners of the various parking blocks.

Existing layout:



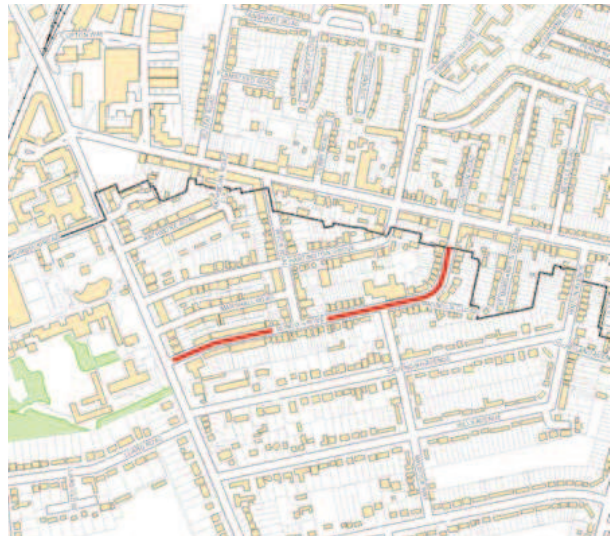
Scheme Number:	S4
Scheme Title:	Queen Ediths Way & Mowbray Road verge repairs
Scheme Description:	Repair verges and consider widening splays of narrow drives to stop cars driving over verges
Promoted by:	George Pippas
Ward:	Queen Edith
Estimated Budget:	Up to £25k for each road
Risks to Delivery:	LOW/MEDIUM RISK <ul style="list-style-type: none"> - Highways approval - Buried services / tree roots
Eligibility:	<ul style="list-style-type: none"> - Direct, lasting and noticeable improvement to appearance of a street - Publicly visible and accessible - Low future maintenance costs - Possible opportunity for County and frontager contributions
Officer Comments:	Extensive project. Worse on Queen Ediths Way (particularly Cherry Hinton end) than Mowbray Road. Narrow drives, granite kerbs with short, steep tapers. An allocation of £25,000 for each road should allow the most needy areas to be improved.
Promoter's Comments:	The scheme would improve the general appearance, wider splays might help to protect the verges in the longer term and reduce ongoing repair costs.

Existing layout:



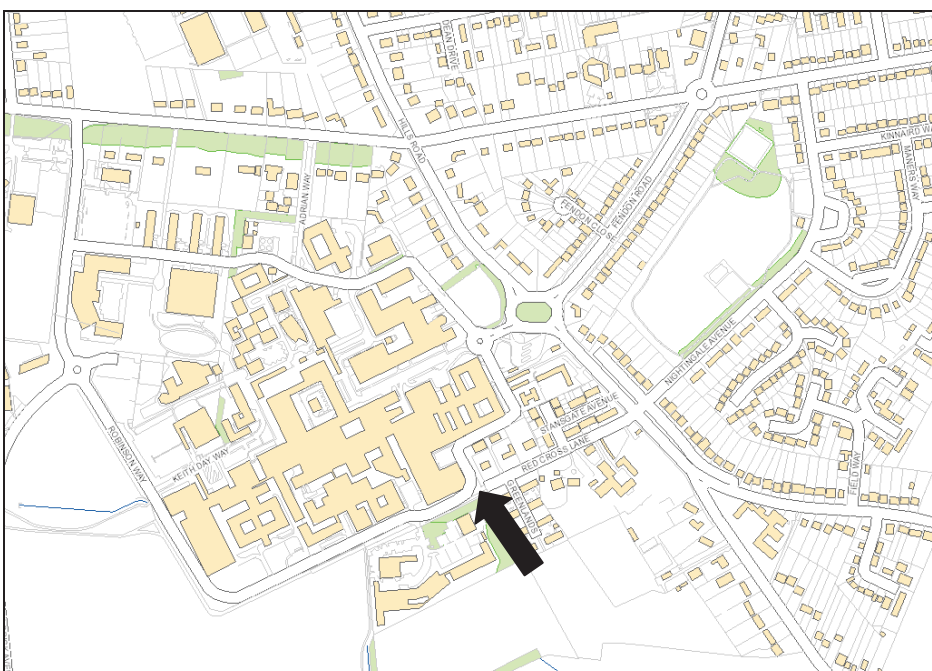
Scheme Number:	S5
Scheme Title:	Blinco Grove lamp posts
Scheme Description:	Paint replacement stainless steel lamp posts black as more in keeping with historic style
Promoted by:	Amanda Taylor
Ward:	Queen Edith
Estimated Budget:	£10,000
Risks to Delivery:	<p>MEDIUM RISK</p> <ul style="list-style-type: none"> - Columns under the ownership of Balfour Beatty, under the PFI contract. - Not all posts would be straightforward to paint, as insufficient clearance from obstructions. - Health and Safety implications of working at height over a prolonged period of time. - Paint system might not take well to the galvanised steel finish of the columns and plastic lanterns and require ongoing maintenance. - Finish might not be as good as desired, due to working conditions.
Eligibility:	<ul style="list-style-type: none"> - Direct and noticeable improvement to appearance of a street - Publicly visible
Officer Comments:	<p>Up to 20 lamp posts. Will require cherry picker. Lighting is under the control of County Council/Balfour Beatty.</p> <p>Painting galvanised steel isn't always successful, as the metal can flake off as it weathers and would need an expensive paint system. Some columns, such as pictured below, are positioned so close to obstructions that it would be physically impossible to paint them in-situ.</p> <p>Issues with working at height under several separate traffic management layouts.</p>
Promoter's Comments:	Residents objected to replacement of black historic lamp posts. Investigating if financial contribution will be made by residents.

Existing layout:



Scheme Number:	S6
Scheme Title:	Red Cross Lane dropped kerb
Scheme Description:	Install dropped kerb on Red Cross Lane at gate leading to Addenbrookes Hospital.
Promoted by:	Amanda Taylor
Ward:	Queen Edith
Estimated Budget:	£3,000
Risks to Delivery:	LOW/MEDIUM RISK <ul style="list-style-type: none"> - The gate is owned by a third party so land ownership may need to be checked. - Tree roots and buried services.
Eligibility:	<ul style="list-style-type: none"> - Publicly visible and accessible - Low future maintenance costs - Improves accessibility (equal opportunities)
Officer's Comments:	Kerb to left side of gate needs dropping in order to facilitate access through the opening and on to the Addenbrookes site. Care to be taken with tree roots, and will need investigating on-site, once opened up.
Promoter's Comments:	-

Existing layout:



Scheme Number:	S7
Scheme Title:	Nightingale Rec bowling green
Scheme Description:	Turn bowling green into picnic area, orchard and children's veg patch as no longer used by bowling club
Promoted by:	Tim Moore
Ward:	Queen Edith
Estimated Budget:	£3K (for development work to inform best use of green space) £5K (to make safe and accessible for potential alternative uses)
Risks to Delivery:	LOW/MEDIUM RISK <ul style="list-style-type: none"> - Objection to loss of sporting facility by Sport England. - Preference of local residents to alternative use.
Eligibility	<ul style="list-style-type: none"> - Publicly accessible - Active involvement of local people - Ease and simplicity of implementation
Officer Comments:	<p>Bowling Club folded last year. Space unused. A number of alternative uses have been mooted including allotments and a boules/petanque playing area. Suggest that initial consideration focuses on independent and detailed consultation to develop the best option.</p> <p>Any alternative use would require the re-profiling of the bowling green boundary to make it safe (particularly for children) and accessible.</p>
Promoter's Comments:	This would give a separate dog-free area with wooden tables/benches, fruit trees around the edge and veg patch.

Existing layout:



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PROGRESS OF EXISTING EIP SCHEMES - SOUTH AREA

No.	Scheme Title	Scheme Description	Promoted by	Ward	Approved Budget £	Completion Expected	Comments
1	Rectory Terrace Cherry Hinton High St	Refurbishment of privately owned shop forecourt.	Ward Cllrs	Cherry Hinton	60,000	Mar-15	Scheme design drafted and competitively priced with current estimate approximately £110,000. In addition to the EIP allocation, some £20,000 of private funding is available. Funding options to meet the £30,000 shortfall are under investigation.
2	Mill End Road/Cherry Hinton High Street Bollards	Installation of bollards and cycle stands to prevent vehicles mounting the pavement and parking on the forecourt.	Ward Cllrs	Cherry Hinton	3,500	Completed	-
3	Cherry Hinton War Memorial	Village war memorial near the recreation ground. Existing fence to be moved back, hard surface to be put down around this area and the memorial to be raised up from the ground.	Cllr Dryden	Cherry Hinton	5,000	Oct-14	Additional £2,000 contribution secured from the County Council's highway maintenance budget. However, completing the project to a high standard is likely to require a further £5,600; based upon competitive quotations. S106 Informal Open Space additional funding proposed.
4	Noticeboard on Cherry Hinton Rec	Provision of double sided noticeboard.	Ward Cllrs	Cherry Hinton	4,500	Completed	-

APPENDIX C

No.	Scheme Title	Scheme Description	Promoted by	Ward	Approved Budget £	Completion Expected	Comments
5	Trumpington War Memorial	Drainage and landscaping around the base to be improved. Information board to be installed.	Cllr Blackhurst	Trumpington	8,500	Oct-14	This project is likely to cost £29,000 to complete to a high standard, based upon competitive pricing. In addition to the EIP allocation, £2,500 is available from City R&R drainage funding, and a £8,000 contribution has been secured from the County Council's highway maintenance budget. This leaves a shortfall of some £10,000. S106 Informal Open Space additional funding proposed.
6	Hobson's Brook from Bateman Street to Lensfield Road	Railings along Hobson's Brook from Bateman Street to Lensfield Road (on the Trumpington Road frontage of the brook) to be refurbished.	Former Cllr Stuart	Trumpington	9,000	Completed	-
7	South Mobility Crossings	Disabled dropped crossing for Wulfstan Way.	Ward Cllrs	Queen Ediths	6,000	Completed	-
8	Baldock Way	Verge reinforcement.	Cllr Birtles	Queen Ediths	25,000	Oct-14	The County Council has recently introduced school-time waiting restrictions on one side of Baldock Way between Glebe Road and Hills Avenue. Consequently, the scheme proposals are being reviewed.
9	Bateman Street	New trees and improved tree pits.	Ward Cllrs	Trumpington	20,000	Oct-14	Draft design developed for local and stakeholder consideration, with competitive prices sought. Indications are the project may require a further £5,000 funding to complete to a high standard.

APPENDIX C

No.	Scheme Title	Scheme Description	Promoted by	Ward	Approved Budget £	Completion Expected	Comments
10	Babraham Road	Verge refurbishment.	Cllr Birtles	Queen Ediths	15,000	Oct-14	The County Council will imminently be introducing No Waiting At Any Time restrictions along the full length of Hills Road/Babraham Road between Nightingale Avenue and Hinton Way roundabout, associated with the introduction of charging at the Park & Ride site. Damaged areas of verge can be refurbished thereafter.
11	Godwin Way	Amendments to carriageway layout.	Cllr Birtles	Queen Ediths	3,000	Completed	-

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ELIGIBILITY CRITERIA

As agreed by the Executive Councillor (Environment) on the 18th March 2003 with amendments agreed on the 22nd March 2005.

Essential Criteria:

- Schemes should have a direct, lasting and noticeable improvement to the appearance of a street or area.
- Schemes should be publicly visible and accessible.
- Should the scheme be on private land, the owners' permission must be granted – unless there are exceptional circumstances by which the Area Committee may wish to act unilaterally, with full knowledge and responsibility for the implication of such action.
- Schemes must provide low future maintenance costs.

Desirable criteria:

- Active involvement of local people.
- The project will benefit a large number of local people.
- 'Partnership' funding.
- The potential for inclusion of employment training opportunities.
- Ease and simplicity of implementation.
- Potential for meeting key policy objectives (e.g. improving community safety or contributing to equal opportunities).

Ineligible for funding:

- Where a readily available alternative source of funding is available.
- Revenue projects.
- Schemes that have already received Council funding (unless it can be clearly demonstrated that this would not be 'top up' funding).
- Works that the City or County Council are under an immediate obligation to carry out (e.g. repair of dangerous footways)
- Play areas (S106 funding should pay for this resource)

Other Information:

The following categories of work were agreed as being eligible for funding by the Area Committees:

- Works in areas of predominately council owned housing
- Works to construct lay-bys where a comprehensive scheme can be carried out which not only relieves parking problems but achieves environmental improvements.

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SUMMARY OF MINOR TRAFFIC REGULATION ORDER SCHEMES**APPENDIX E****SOUTH AREA BUDGET £11,000****Traffic Regulation Orders Implemented**

No.	Scheme Title	Scheme Description	Ward	Status	Final Cost £	Comments
1	Reed Close, Shelford Road	Double yellow lines on the corner of Reed Close/Shelford Road	Trumpington	Completed	£ 355.75	Traffic order made and double yellow lines implemented on site.
2	Chelwood Road junctions with Claygate road/Chartfield Rd	Double yellow lines on Chelwood Road at the junction of both Claygate road and Chartfield Rd	Cherry Hinton	Completed	£ 643.15	Traffic order made and double yellow lines implemented on site.
3	Nightingale Avenue	Change from single yellow line to double yellow line around the central crossed island.	Queen Ediths	Completed	£ 588.30	Traffic order made and double yellow lines implemented on site.
4	Cranleigh Close, Shelford Road	Double yellow lines on the corner of Cranleigh Close/Shelford Road.	Trumpington	Completed	£ 329.33	Traffic order made and double yellow lines implemented on site.
SUB-TOTAL					£ 1,916.53	

Traffic Regulation Orders In Progress

No.	Scheme Title	Scheme Description	Ward	Status	Estimated Budget £	Comments
1	Paget Close/Paget Road	Proposed double yellow lines and Bus Stop Clearway where Paget Close meets Paget Road.	Trumpington	Ongoing	£ 500.00	This proposal is being implemented by the County Council, an update on the status of the traffic order has been requested.
2	Langdale Close	Proposed double yellow lines to improve access for larger vehicles.	Cherry Hinton	Ongoing	£ 500.00	Proposal to be developed further by the City Council.
3	Aberdeen Avenue Area (including Kingfisher Way)	Investigation of access issues for larger vehicles and the selection of suitable options to resolve any current issues.	Trumpington	Ongoing	£ 1,500.00	Proposals under development by the County Council.
SUB-TOTAL					£ 2,500.00	

Proposed Traffic Regulation Order Schemes

No.	Scheme Title	Scheme Description	Ward	Status	Estimated Budget £	Comments
1	Hulatt Rd parking restrictions	Add short section (1 car length) double yellows at the end of Hulatt Road up to junction with Mowbray Rd to prevent parking and increase visibility exiting road.	Queen Ediths	New	£ 1,500.00	Proposal to be developed further by the City Council.
2	Chalk Grove parking restrictions	Add short section (1 car length) double yellows at the end of Chalk Grove up to junction with Queen Edith's Way to prevent parking and increase visibility exiting road.	Queen Ediths	New	£1,500.00	Proposal to be developed further by the City Council.
3	Church End parking restrictions	Waiting restrictions on Church End adjacent to the new Neath Farm development.	Cherry Hinton	New	£1,500.00	Proposal to be developed further by the City Council.
4	Cherry Hinton Road / Walpole Road junction	Waiting restrictions on both roads at the junction adjacent to the Catholic Church.	Cherry Hinton	New	£ 1,500.00	Proposal to be developed further by the City Council.
SUB-TOTAL					£ 6,000.00	

TOTAL ESTIMATED SPEND	£ 10,416.53
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BUDGET REMAINING	£ 583.47
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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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CAMBRIDGE CITY COUNCIL

REPORT OF: Head of Planning Services

TO: South Area Committee

23/06/2014

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

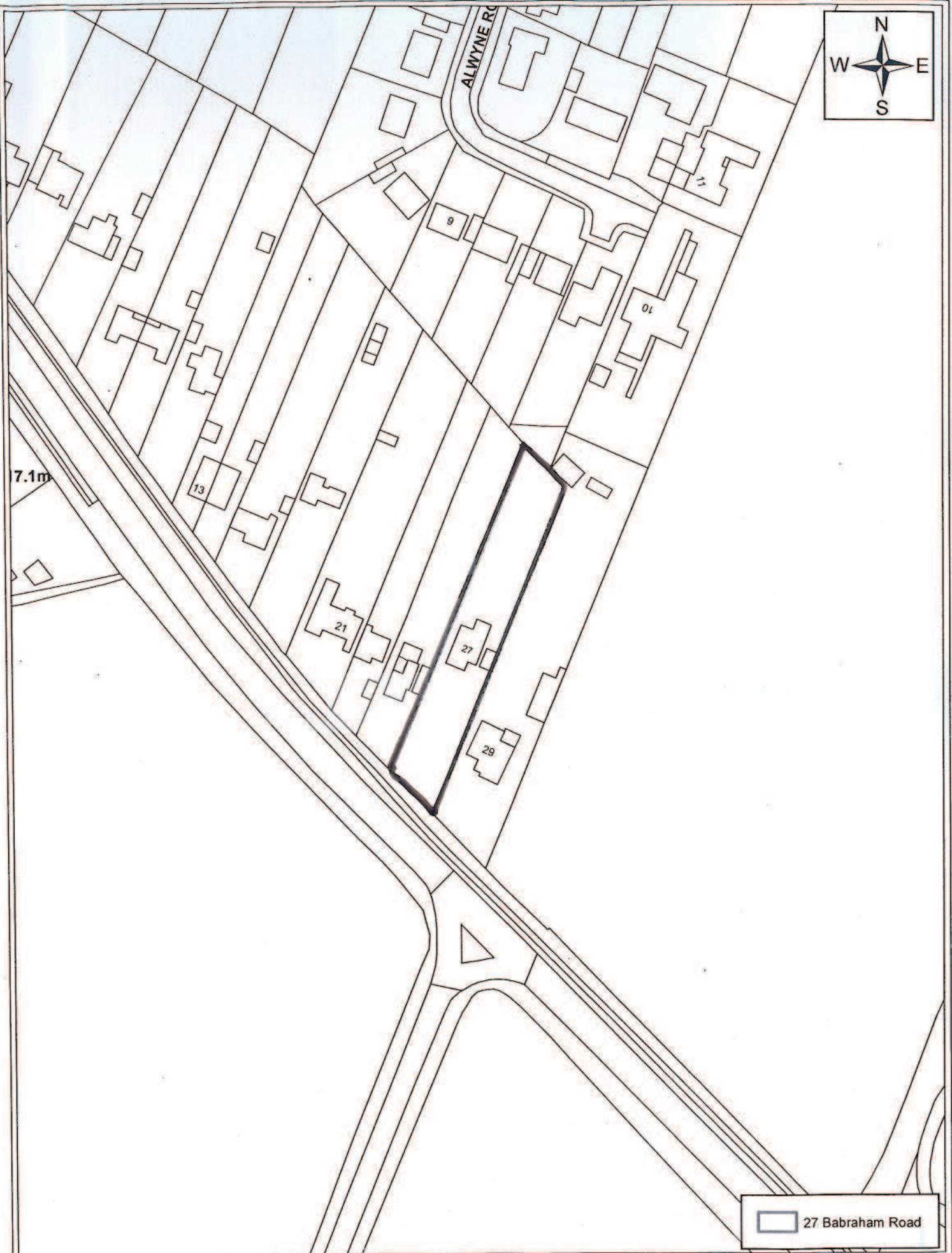
Date originated: 20 May 2014


Date of last revision: 20 May 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

REPORT OF: Head of Planning Services

TO: South Area Committee

DATE: 07/03/2013

WARD: Queen Ediths

PLANNING ENFORCEMENT CONTROL ENFORCEMENT NOTICE REPORT

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

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

Reference	Description
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 7th 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 29th 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 on 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

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.

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 class¹ 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 2012².

¹ *Belmont Riding Centre v Secretary of State for Transport, Local Government and the Regions* [2002] EWCA Civ 169.

² 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 2012³ 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

³ 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



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

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

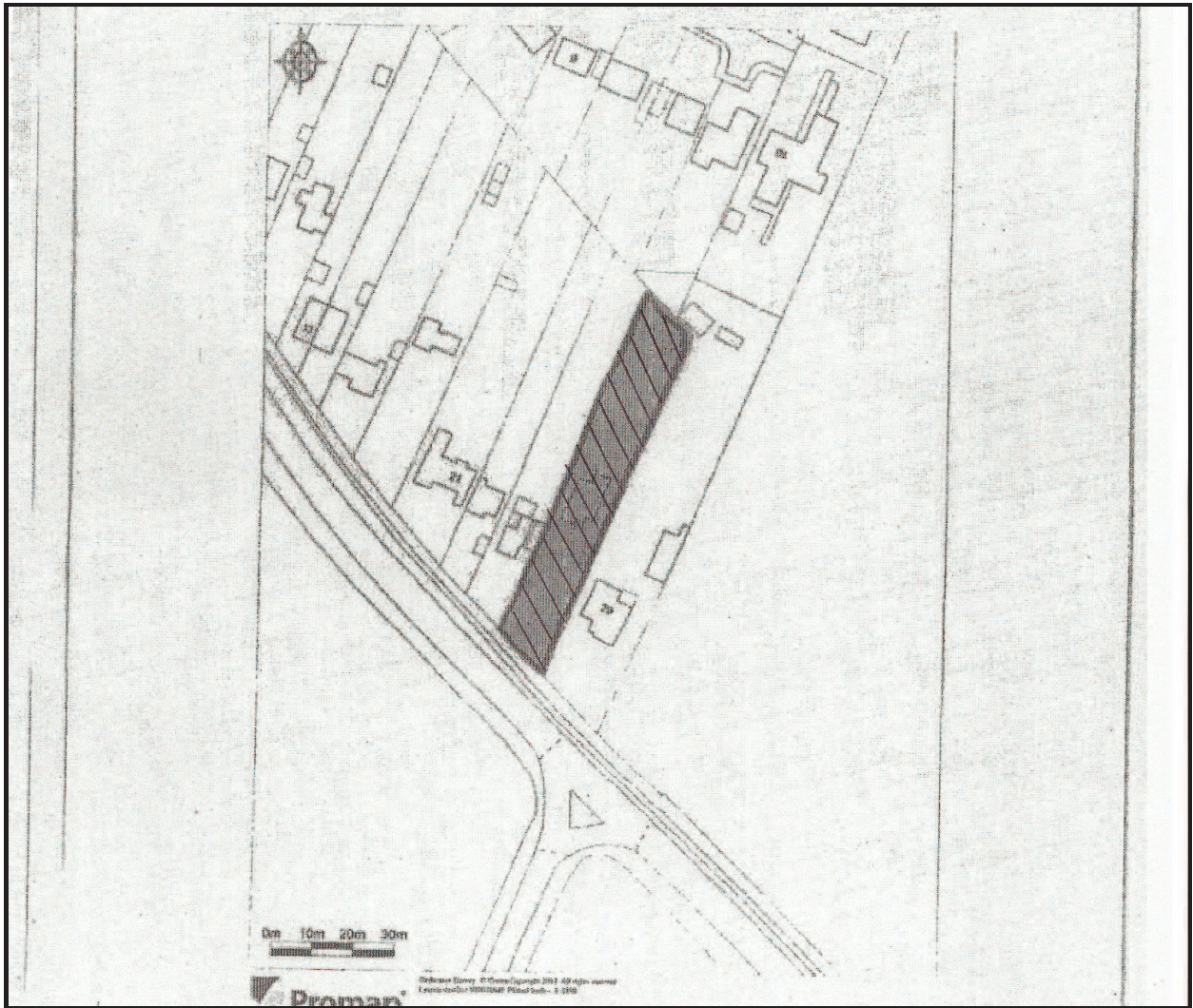
This is the **plan 'A'** referred to in the Lawful Development Certificate dated: 23 July 2013

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

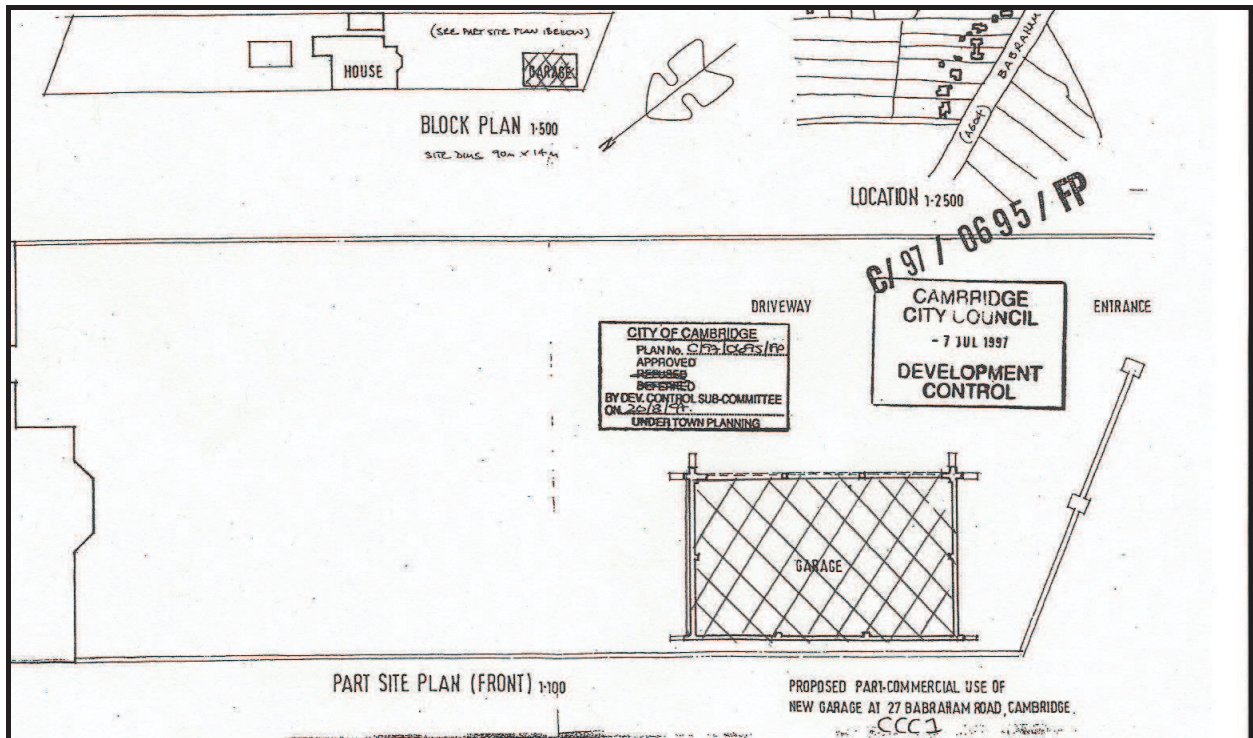
This is the **plan 'B'** referred to in the Lawful Development Certificate dated: 23 July 2013

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





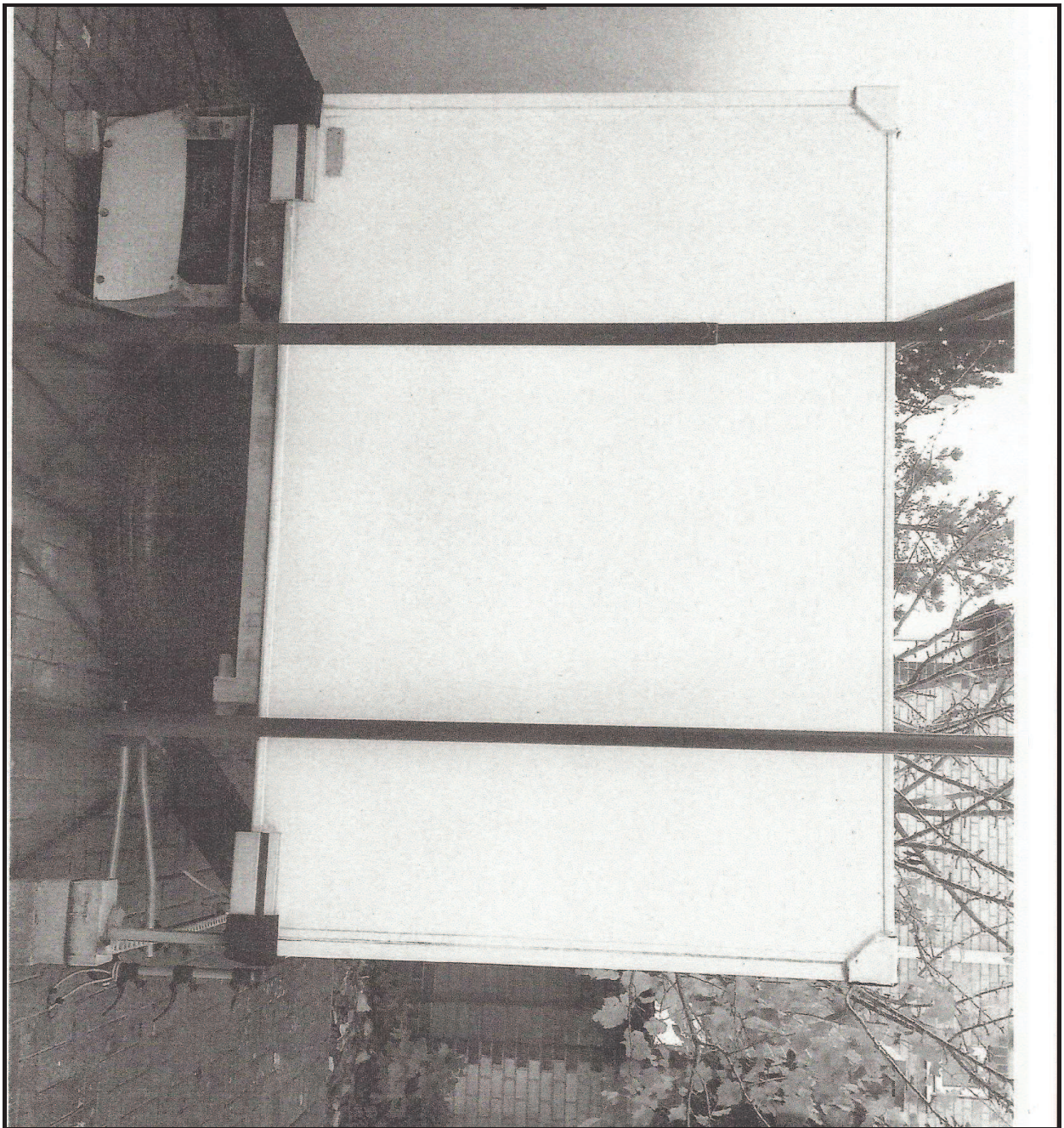
Photograph

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

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")¹. (This does not include the 2 bay car port extension to the garage built subsequent to permission C/01/0558²). 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 photo³ and located between the dwelling and the extended garage is also lawful.

The local planning authority takes the view that the current lawful use⁴ 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.

¹ From Planning Permission ref: C/97/0695/FP and Planning Inspector Decision Letter 23/7/13. Ref: App/Q0505/X/13/2193066

² Paragraph 14 Planning Inspector Decision Letter 23/7/13. Ref: App/Q0505/X/13/2193066

³ Planning Inspector Decision Letter 23/7/13. Ref: App/Q0505/X/13/2193066

⁴ 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 site⁵.

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 property⁶ and this is not considered to be an ancillary storage activity so is not lawful.⁷

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

⁵ Paragraph 19, Planning Inspector Decision Letter 23/7/13. Ref: App/Q0505/X/13/2193066

⁶ Paragraph 9 Planning Inspector Decision Letter 23/7/13. Ref: App/Q0505/X/13/2193066

⁷ 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

REPORT OF: Head of Planning Services

TO: South Area Committee DATE: 23/06/14

WARD: Queen Ediths

PLANNING ENFORCEMENT CONTROL ENFORCEMENT NOTICE REPORT

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.

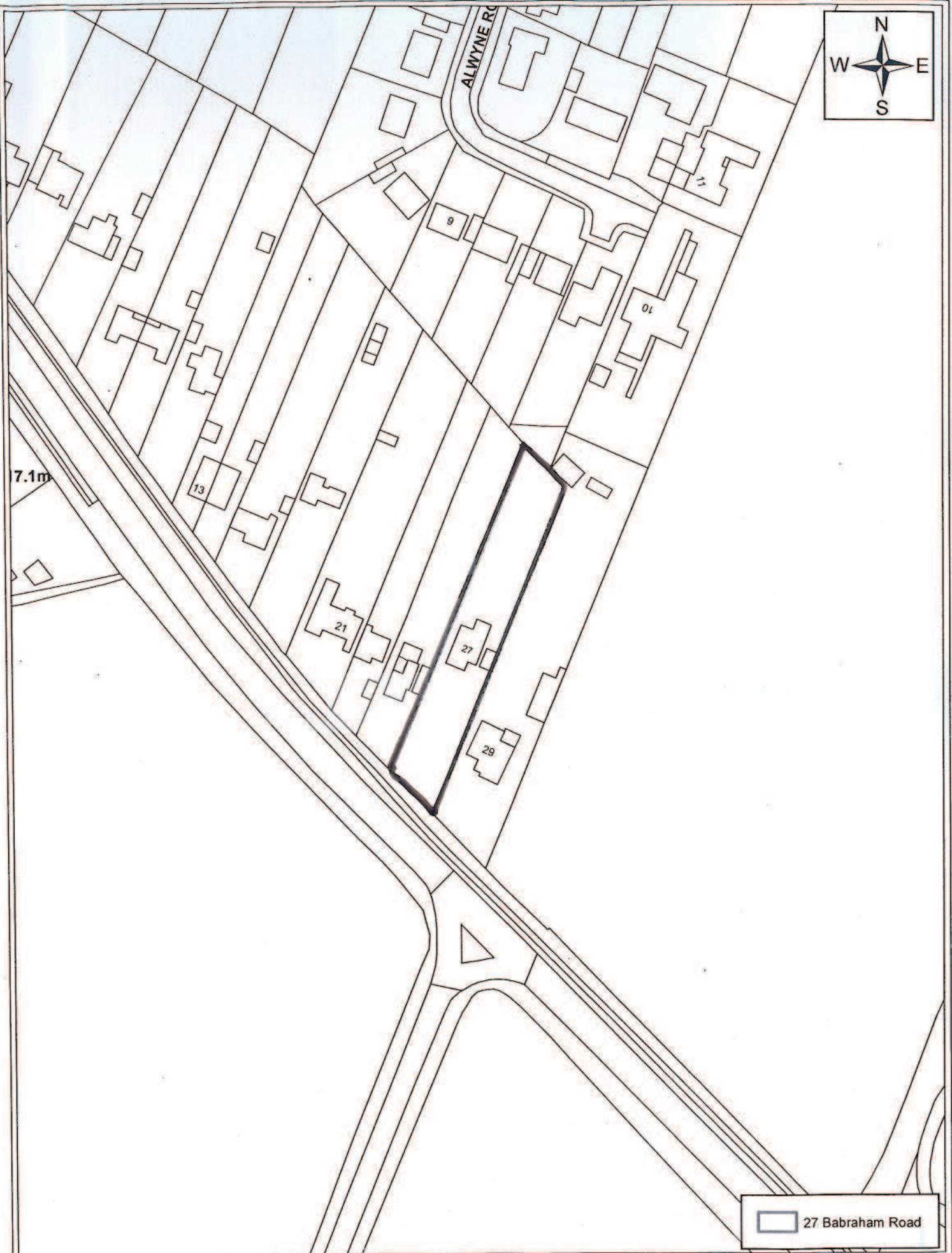
Consideration has been given to the Human Rights Act 2000 and the Equalities Act 2010. Officers have noted Article 1 Protocol 1 (protection of property), Article 6 (a right to a fair hearing within a reasonable time), Article 8 (right to respect for private family life) and Article 14 (prohibition of 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.

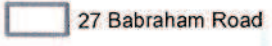
APPENDICES

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
Scale:	1:1,250 @ A4

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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.



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

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.

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 class¹ 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 2012².

¹ *Belmont Riding Centre v Secretary of State for Transport, Local Government and the Regions [2002] EWCA Civ 169.*

² 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 2012³ 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

³ 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



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

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

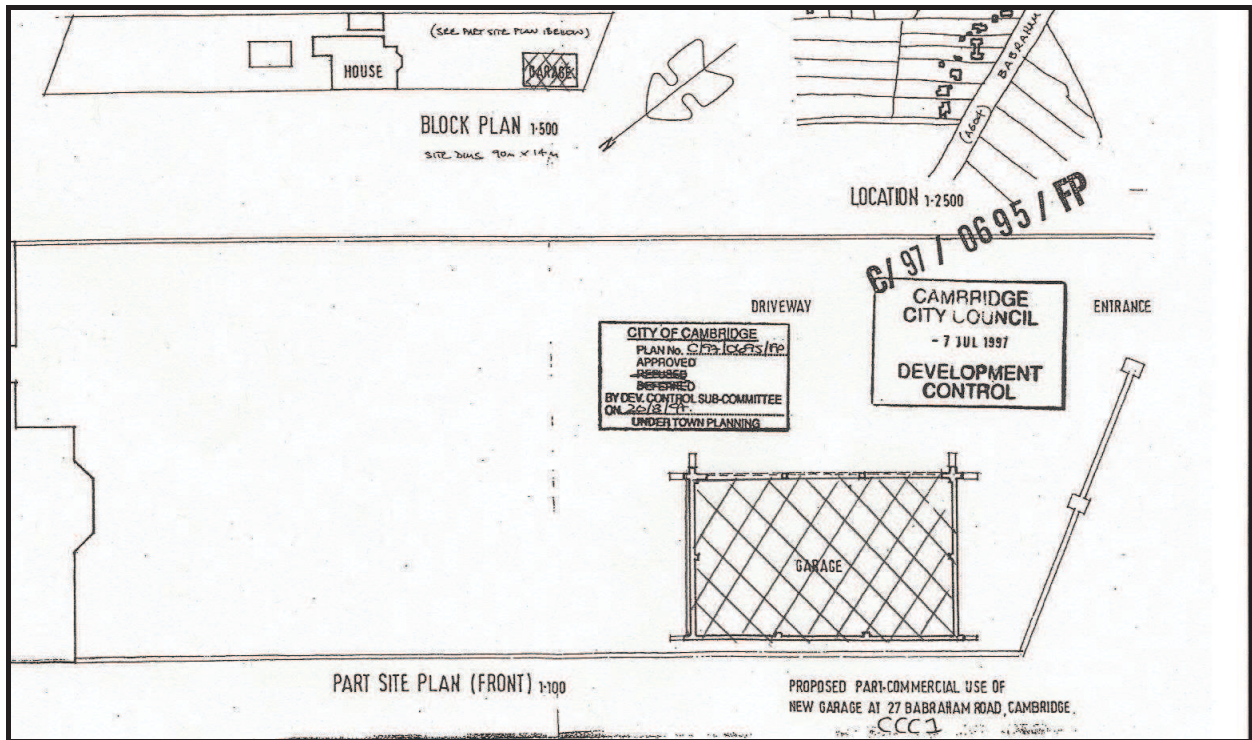
This is the **plan 'B'** referred to in the Lawful Development Certificate dated: 23 July 2013

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





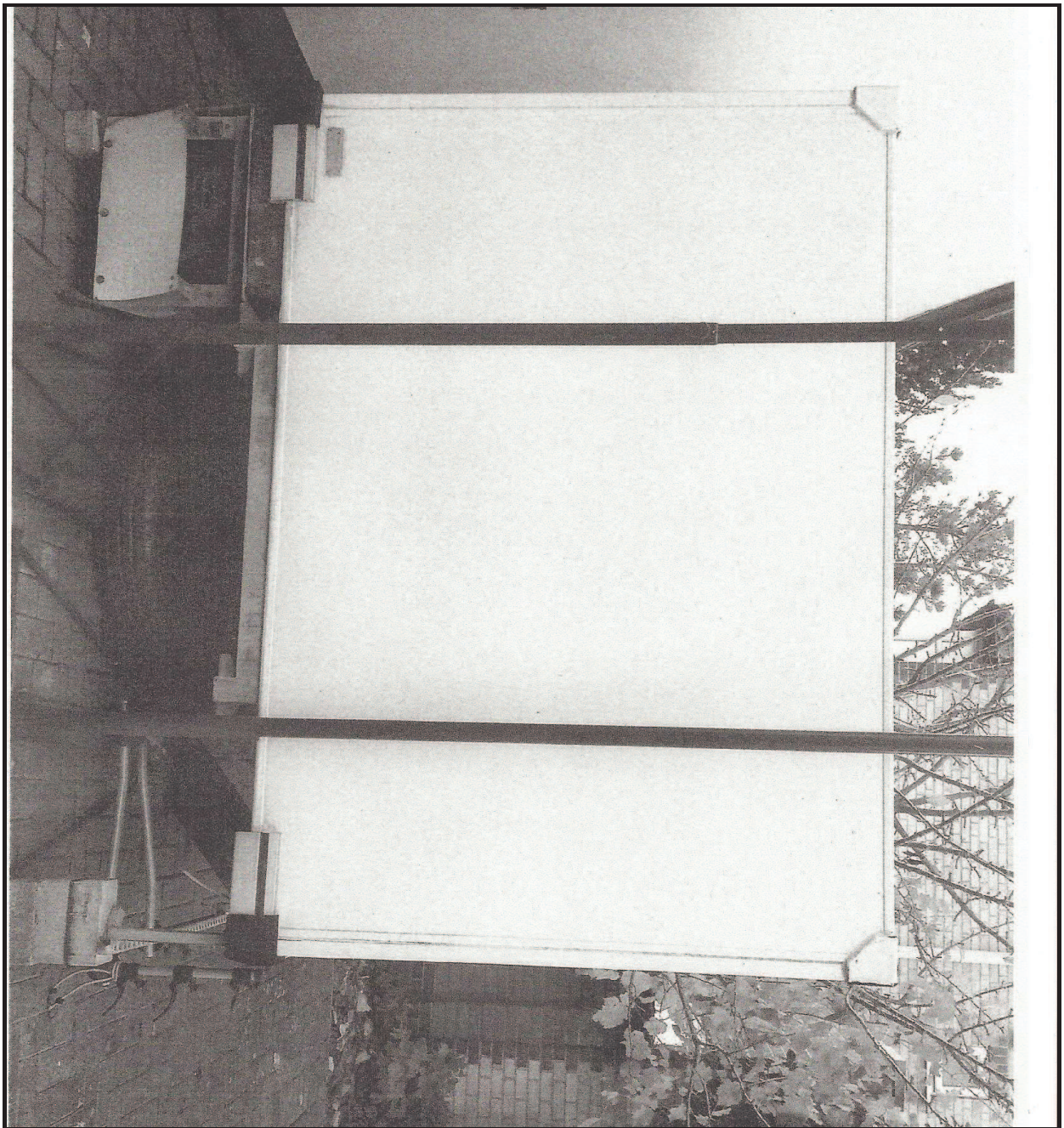
Photograph

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

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")¹. (This does not include the 2 bay car port extension to the garage built subsequent to permission C/01/0558²). 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 photo³ and located between the dwelling and the extended garage is also lawful.

The local planning authority takes the view that the current lawful use⁴ 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.

¹ From Planning Permission ref: C/97/0695/FP and Planning Inspector Decision Letter 23/7/13. Ref: App/Q0505/X/13/2193066

² Paragraph 14 Planning Inspector Decision Letter 23/7/13. Ref: App/Q0505/X/13/2193066

³ Planning Inspector Decision Letter 23/7/13. Ref: App/Q0505/X/13/2193066

⁴ 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 site⁵.

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 property⁶ and this is not considered to be an ancillary storage activity so is not lawful.⁷

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

⁵ Paragraph 19, Planning Inspector Decision Letter 23/7/13. Ref: App/Q0505/X/13/2193066

⁶ Paragraph 9 Planning Inspector Decision Letter 23/7/13. Ref: App/Q0505/X/13/2193066

⁷ 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.

Application Number	14/0356/FUL	Agenda Item	
Date Received	7th March 2014	Officer	Miss Catherine Linford
Target Date	2nd May 2014		
Ward	Trumpington		
Site	Land Between 2 And 3 Shaftesbury Road Cambridge CB2 8BW		
Proposal	Construction of a new dwelling.		
Applicant	Mr G Race 6 Aberdeen Avenue Cambridge CB2 8DP		

SUMMARY	<p>The development accords with the Development Plan for the following reasons:</p> <ol style="list-style-type: none"> 1. It enhances the character and appearance of the Conservation Area. 2. It does not have significant detrimental impact on the residential amenity of neighbouring occupiers 3. It closely conforms to the extant permission for a dwelling on the site which is a significant material consideration.
RECOMMENDATION	APPROVAL

1.0 SITE DESCRIPTION/AREA CONTEXT

- 1.1 The application site is situated between Nos. 2 and 3 Shaftesbury Road, on the east side of the street, within City of Cambridge Conservation Area 10 (Brooklands). The site was formerly a car park, when No 2 was occupied by the Red Cross as offices.

- 1.2 The ‘square’ of roads formed by Shaftesbury Road, Brooklands Avenue (north), Clarendon Road (east), and Fitzwilliam Road (south) contains a mix of housing types and styles. Buildings are predominantly in residential use, though there are school

and CUP premises south of Fitzwilliam Road, offices east of Clarendon Road and at 5 Shaftesbury Road a house has been converted to office use. Nos. 2 and 3 Shaftesbury Road are substantial, double-fronted, Victorian villas, in residential use. The Accordia development, a scheme of approximately 380 houses and flats, is opposite the site on the west side of the road, set back behind trees and an area of green space. The Accordia development is now within the Conservation Area.

2.0 THE PROPOSAL

2.1 Full planning permission is sought for the erection of a three storey, detached dwelling with basement. The house would be rectilinear in footprint, covering almost the full width of the plot, and would consist of a basement, ground floor, first floor and second floor. The house will be set off the north and south boundaries by 1 metre which it is understood is to comply with a restrictive covenant. The previously approved house on the plot occupied the full width. The restrictive covenant is not a material planning consideration.

2.2 The accommodation would be laid out as follows:

Basement/Lower ground floor: Utility/living room, studio, lower conservatory and store.

Ground floor: Entrance hall, kitchen/dining room, upper conservatory, cloakroom and bin and cycle store.

First floor: Salon and two bedrooms both with shared bathroom

Second floor: Study and bedroom with ensuite bathrooms/dressing room.

2.3 The application is accompanied by the following supporting information:

1. Design and Access Statement

2.4 Amended plans have been submitted which include the following amendments:

- 1 All glazing to the North and South elevations has been confirmed as obscured glass.
- 2 The overall height of the building to the roof ridge is reduced by 0.5 metres
- 3 The eaves height is reduced by 0.55 metres

- 4 The second floor level and the associated external balcony are reduced by 0.1 metres
- 5 The profile and detail of the attic storey roof have been amended
- 6 The obscured glass balustrade at the second floor level has been moved in by 0.2 metres

3.0 SITE HISTORY

Reference	Description	Outcome
C/04/1040/FUL	Erection of one detached 3 bed dwelling house (following demolition of out buildings.	A/C
10/1143/FUL	Erection of eco-friendly house.	REF
12/0438/FUL	Construction of a new dwelling.	REF
12/0505/FUL	New dwelling on land adjacent to 2 and 3 Shaftesbury Road.	Withdrawn
13/0310/FUL	New dwelling on land adjacent to 2 and 3 Shaftesbury Road.(The Round House)	A/C

4.0 PUBLICITY

4.1	Advertisement:	Yes
	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 3/8 3/11 3/12 4/4 4/11 5/1 5/14 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)
	<u>Area Guidelines:</u> Conservation Area Appraisal: Brooklands Avenue (2002 and 2013)

6.0 CONSULTATIONS

Cambridgeshire County Council (Engineering)

6.1 *Application as submitted*

The application states that a new dropped kerb or kerbs will be provided on the frontage of the site but provides no further details. The site is fronted by a residents parking bay, which is not shown on the plans. The proposed access would require the removal of the bay, which would require an amendment of the existing Traffic Regulation Order. The residents of the proposed dwelling would not be eligible for Residents Parking Permits. Further information is needed in relation to car parking spaces.

Conditions are recommended relating to the materials used for the driveway, gates, structures on the highway, drainage, manoeuvring space, access and the need for a TRO to address on street parking. Informatives are also recommended.

Application as amended

No further comments, previous comments apply.

Head of Refuse and Environment

6.2 *Application as submitted*

No objection in principle. Conditions are recommended in relation to construction hours and piling.

Application as amended

No further comments, previous comments apply.

Urban Design and Conservation Team

6.3 The UDC team considers that innovative design in conservation areas can be supported when it enhances the character or appearance of that area. They note that in regard to this particular property, the recently updated Brooklands Avenue Conservation Area (2013) notes: "the poor condition of a small

empty site between Nos. 2 and 3 – this needs to be developed sensitively”. The appraisal therefore contemplates in some way the eventual development of this property. Policy 4/11b) of the 2006 Cambridge Local Plan permits new buildings which can “provide a successful contrast” with the character or appearance of the conservation area.

The UDC team are of the view that the recently consented scheme, the previous “round house” design represented a more appropriate scale and mass to fit with the rhythm of the street. In so doing it was considered “innovative” in its immediate context.

The property is small relative to neighbouring properties, however the property would be “sterilised” permanently if it could not be developed. The revised scheme within this current application creates a dwelling with a form more narrow and vertical in appearance when contrasted to adjacent dwellings in Shaftsbury Road. The resulting “streetscape” is one where the proposal, just in terms of its scale, appears as more of an anomaly within this side of Shaftsbury Road, its most relevant context. In particular, the building width (its façade to Shaftsbury Road) measures 8 metres; adjacent dwellings measure 17 metres for no. 2 and 18 metres for no. 3, inclusive of side extensions (when scaled from plan SRC226 submitted with the application). Numbers 1, 4 and 5 similarly are significantly wider than the proposed elevation to Shaftsbury Road.

Irrespective of the building width, the UDC team consider that the architecture of this current proposal is well considered, employs good materials and is a good example of “innovative” design in this location.

The view of the UDC team is that the judgement of whether the application is acceptable in planning terms therefore comes down to one question alone: is it appropriate to develop a property of this size in this location? The answer must follow a finely balanced judgement of this question, and it is therefore not as much a question of design, or even conservation, as it is about the principle of development of the property. The updated Brooklands Avenue Conservation Area does however appear to anticipate the development of the parcel, provided as it notes it is done “sensitively”.

Conclusion:

A modern building which enhances the conservation area could sit well in this site providing it respects the character of the immediate locality, particularly Shaftesbury Road. The current house design represents a “successful contrast” in the Brooklands Avenue Conservation Area. This is the case not so much in terms of its scale (as explained above) but in the contemporary nature of its design.

The approved round house was a better design overall as it better “filled out” the property. Ideally a lot of this size should not have been created in this location given its relatively smaller scale to neighbouring properties; nevertheless it exists.

In conclusion, it is therefore principally a planning “question” as to whether it is appropriate to develop this property. If, in planning terms, it is appropriate to develop, then the latest design is considered suitable for this site. If not, then the question of design is a relatively moot point and the property should not be developed in the first place.

Suggested Conditions:

External building materials
Boundary treatment
External hard and soft landscape

Head of Streets and Open Spaces (Tree Team)

- 6.4 The Arboriculture Officer has not commented on the current application but her comments on the previous application were as follows:

Satisfied that the remaining tree on the site can be excluded from the construction area and remain unaffected by the development subject to installation of tree protection barriers at the edge of the root protection area.

- 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:

- 1 Shaftesbury Road
- 2 Shaftesbury Road
- 3 Shaftesbury Road
- 4 Shaftesbury Road
- Ravensworth, 21 Brooklands Avenue
- 5 Clarendon Road
- 7 Clarendon Road
- 9 Clarendon Road
- 17 Clarendon Road (x3)
- Brooklands Avenue Residents Association (BAARA)

7.2 *Application as submitted*

The representations can be summarised as follows:

Character, context and impact on the Conservation Area

- The proposed building is very wide and tall relative to its plot and would detract from the feel of the Conservation Area
- A house with a similar design was rejected in 2010 and 2012. The proposal is very similar to those and has not changed enough to be an enhancement to the conservation area
- Out of context
- The footprint is too large for the plot and the building will loom over adjacent Victorian buildings
- The footprint is larger than the permitted Round House and the rectangular form will make the building more dominant and overbearing
- If approved it would set a precedent for the infilling of gaps between houses, which would lead to the loss of important green space in the City
- Would alter the symmetry and the spacing between buildings
- Prevent views between buildings into gardens
- Balconies and large areas of glazing would be out of character with the rest of the street
- Unacceptable mass and height

- The building has full height and width floors unlike the surrounding buildings that have pitched roofs
- Design does not reflect character and scale of Victorian villas and fails to respect the context or character of the conservation area
- The roof form should be altered
- The eaves height should conform with neighbouring houses and is higher than the approved Round House

Residential amenity

- Loss of privacy caused by the extensive glazing and balconies at the rear
- Proposed window to North elevation will overlook living space and child's bedroom
- The amount of glazing is more substantial than the approved Round House and Coach House and will result in more overlooking
- There should be obscured glazing on the Juliet balcony
- All windows on side elevations should be obscure glazed
- Site plan does not show full extent of impact on privacy
- Overshadowing and overlooking of neighbouring properties
- Dominance
- Light pollution from the large, modern windows
- The garden is not large enough for the house
- The height of the building facilitates overlooking of surrounding houses which adversely affects privacy
- Loss of light to neighbouring houses
- Overshadowing of windows serving living space
- Glazing to side elevations will affect privacy
- The development is much more dominant than the permitted Coach House building
- Neighbouring gardens would be faced with a 9 metre high wall
- Existing privacy is dependent on the retained tree which does not look healthy
- Obscure glazing may be changed to clear glass in the future

Car parking

- Insufficient parking spaces
- The loss of the on-street parking bay would be detrimental to existing households
- The Design and Access Statement does not refer to access and ignores the loss of a pay and display parking bay.

Other

- High water table and potential flooding of the basement
- There is no reference to bin storage
- Inadequate space for tree planting
- The proposed building looks like an apartment block and could be used for this purpose in the future
- There were no pre-application discussions with neighbours
- No scales are shown on the plans
- External materials are not shown
- There are errors in the Design and Access Statement in relation to the use of adjacent buildings, the roof form and incorrect annotations
- Statements regarding the restrictive covenant are misleading/not relevant

7.3 *Application as amended*

The occupiers of both 2 and 3 Shaftesbury Road have withdrawn their objections in the light of the amended plans. A preference for brick rather than stone is stated in relation to external treatment.

7.4 Brooklands Avenue Residents Association has made representations on the application as submitted as follows:

- o Supports the objections raised by the residents of 3 and 4 Shaftesbury Road and 5 Clarendon Road
- o Would welcome opportunity to comment on amended plans
- o Supports the principle of construction of a dwelling on the site but is concerned about the design and massing and impact on the Conservation Area and extent of overlooking of neighbours.

No further comments have been made by BAARA in the light of the amended plans.

- 7.5 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 impact on the Conservation Area
3. Residential amenity
4. Refuse arrangements
5. Highway safety
6. Car and cycle parking
7. Third party representations
8. Planning Obligation Strategy

Background

- 8.2 There have been a number of applications for single dwellings submitted for this plot. In 2004, planning permission was granted for a 'coach house' (04/1040/FUL) but this was not built. In 2010, another planning application was submitted for a large house (10/1143/FUL) which was refused.
- 8.3 In 2012 two applications were submitted. The first (12/0505/FUL) was a resubmission of the 2004 application. This was withdrawn before it could be determined. The other application, (12/0438/FUL) was for a contemporary building. This application was refused under delegated powers due to the dominance of the proposed building which abutted the common boundaries with numbers 2 and 3 Shaftesbury Road, and loss of privacy to the neighbours due to the levels of glazing and terracing to the rear.
- 8.4 In 2013 planning permission was granted for a 'Round House' (application reference 13/0310/FUL) which had a circular

footprint. This design pulled the building away from the boundaries to the north and south and the amount of glazing was controlled to address the objections in relation to the 2012 schemes.

Principle of Development

- 8.5 The provision of extra housing in the City is supported in the Cambridge Local Plan (2006). Policy 5/1 of the Cambridge Local Plan (2006) maintains that proposals for housing developments on windfall sites will be permitted subject to the existing land use and compatibility with adjoining land uses. There are previous planning permissions for residential development on this site, therefore the principle of residential development is acceptable.

Context of site, design and impact on the Conservation Area

- 8.6 The site is currently vacant and overgrown with vegetation and was formerly the garden to what is now 2 Shaftesbury Road. When the Brooklands Avenue Conservation Area Appraisal (2002) was written, 2 Shaftesbury Road was still the County Headquarters of the British Red Cross Society 'part of whose rear and side garden has been taken over by car parking and storage sheds'. The Brooklands Avenue Conservation Area Appraisal (2013), refers to the fact that No.2 has now been converted back into a family home. It also mentions the poor condition of this site which 'needs to be developed sensitively'.
- 8.7 The Cambridge Local Plan Policy 4/11 (b) states that the design of any new building should preserve or enhance the character or appearance of the conservation area by 'faithfully reflecting its context or providing a successful contrast with it'. The National Planning Policy Framework in section 12, Conserving and Enhancing the Historic Environment, refers to the 'desirability of new development making a positive contribution to local character and distinctiveness', and that new development in conservation areas should enhance 'or better reveal their significance'. These matters must be taken into consideration when determining any application on this site.
- 8.8 The character of Shaftesbury Road is one of detached dwellings in plots that allow views through to the trees in the gardens

beyond. This is somewhat curtailed by the modern extension to No.5. In addition, due to a number of single storey side extensions, and garages, the original layout of the houses has been heavily altered and some of the gaps have been lessened as a result, albeit only at ground floor level.

- 8.9 The current application relates to a more traditional building footprint but retains a low pitched roof incorporating an 'attic storey, balconies and glazing which give the house a more contemporary appearance. The site is constrained in size particularly in comparison with adjacent plots and would not accommodate a house of similar footprint to its neighbours. In this sense the proposed dwelling could be regarded as out of character with the area. However as the UDC team have pointed out innovative design in Conservation Areas can be supported when it enhances the character or appearance of that area.
- 8.10 The approval of the 'Round House' has established that a dwelling is capable of being successfully accommodated on the site. The proposed dwelling would have the same effect as the approved dwelling in filling in a gap in the street frontage. At the time when the 'Round House' was permitted it was accepted that the streetscene of this part of the Conservation Area is not made up a consistent series of buildings and gaps and that towards the Brooklands Avenue end, the gaps are smaller due to a number of single storey extensions to dwellings. This situation has not changed and in my view it would be difficult to argue that principle of a building of similar height and mass to the Round House is unacceptable.

8.11 The following table compares the dimensions of the approved Round House with the proposed dwelling (as amended).

	Round House	Proposed dwelling
Maximum height	9.5m	9m
Height to eaves (Shaftesbury Road elevation)	7.9m	8m
Maximum width	10m	8m
Minimum/Maximum distance from North/South boundary	0.1m/2m*	1m
Maximum depth including balcony	10.1m	10.6m

*Measured at projecting balcony

8.12 The comparison table shows that at their maximum extent the Round House and the proposed house are very similar. However the footprint of the two dwellings is different and this has an influence upon both the impact on the streetscene and residential amenity. The latter is considered in the next section of my report.

8.13 The round footprint of the Round House is unconventional but does have the advantage of ‘pulling’ the built form away from the boundaries. However it is still a substantial building occupying the full width of the plot. The proposed house however is set off both the north and south boundaries allowing greater space between buildings on the Shaftesbury Road frontage. In my view the position of the respective buildings on the plot will result in them having a very similar impact on the streetscene. Given the extant permission for the Round House in my view it would be difficult to justify refusal on the grounds of impact on the streetscene and the Conservation Area.

8.14 There are both similarities and differences between the elevational treatment of the Round House and the proposed house. Both have full height projecting features and a strong vertical alignment of windows to the Shaftesbury Road elevation which responds well to the projecting bay elements on adjacent buildings. Both roofs feature a combination of set-backs, balconies and change in materials but the proposed houses has

a rectilinear roof shape whilst the Round House is circular. Both houses are proposed to be finished in a similar palette of materials although the use of brick or stone is yet to be agreed. The external space to the road frontage is shown in the same way on both schemes. I recommend that details of external materials, boundary treatment and the landscaping to the front of the proposed dwelling are required by conditions (5, 7 and 8)

- 8.15 I have carefully considered the comments of the Urban Design and Conservation (UDC) team. In my view the response to the question that they raise is 'yes' it is appropriate to develop the site. BAARA also agree with this view. I share the view of the UDC team that in many ways the Round House would have been a more successful building in the streetscene. However the current application needs to be considered on its own merits and in the light of the approved Round House which is a material consideration. In my opinion the current proposal will have a positive impact on the Conservation Area and is a successful building in its own right.
- 8.16 In my opinion the proposal is compliant with Cambridge Local Plan (2006) policies 3/4, 3/7, 3/12, and 4/11.

Residential Amenity

Impact on amenity of neighbouring occupiers

- 8.17 The 2012 application was refused on the grounds of the impact that the proposed house would have on the amenities enjoyed by the occupiers of 2 and 3 Shaftesbury Road. In particular there were concerns about the dominance and overbearing nature of the proposed house and the potential for loss of privacy. I have reviewed this decision and considered the implications of the decision to approve the Round House and conclude that the proposed dwelling will not have an adverse impact on residential amenity for the reasons set out below. It is also worth noting that the occupiers of both houses have now withdrawn their objections to the current application and that the previous refusal only related to the impact on the occupiers of 2 and 3 Shaftesbury Road and no other neighbours.

Dominance and enclosure

- 8.18 I have visited the houses and gardens of 2 and 3 Shaftesbury Road. 2 Shaftesbury Road has single storey extensions on its southern side, and the side extension at the front only has windows on the side, which serve a ground floor room with a mezzanine floor above, facing the development site. 3 Shaftesbury Road has an extension on the northern side, which includes windows on the side that serve a utility room and study.
- 8.19 The side walls of the proposed house would be 7.8m in height and 10.6m in depth (excluding the conservatory which will be obscured by the boundary treatment). The height and depth of the refused scheme was 8.6m/7m and 11.9m respectively. The refused scheme also placed the dwelling on the boundary whereas the current scheme sets the house off the boundary by 1m on each side. The Round House scheme although also on the boundary at its nearest point had the benefit of 'pulling' away from the boundary so that the extent of wall within 1m of the boundary was limited to a 6m depth. In my view the reduced depth and increased set back from the boundary successfully mitigate against the adverse impact of dominance and being overbearing on the neighbouring houses.

Overshadowing and loss of light

- 8.20 Shadow diagrams have been submitted as part of the application. Due to the height of the proposed house, its close proximity to the neighbouring properties, and the orientation of the buildings, the proposed dwelling would cast some shadow over 2 Shaftesbury Road, as it would stand to the south of this neighbour. However, due to the positioning of the proposed house and layout of the neighbour's main rooms and size of its garden, it is my view that it will not significantly impact on the level of light reaching any of the neighbour's main living spaces or garden area.
- 8.21 I acknowledge that the windows in the side extension of No. 2 would experience less light as a result of the proposal, but this would not be to an extent that would be any significantly worse than the previously approved schemes.

Overlooking and loss of privacy

- 8.22 Currently the rear gardens of 2 and 3 Shaftesbury Road are predominantly private spaces. The most private part of the rear garden of 3 Shaftesbury Road (i.e. the area closest to the house) is overlooked by windows at the side of 2 Shaftesbury Road but at a distance of 20m. Interlooking into the remaining gardens between the properties is limited by tree planting, the generous space between the buildings and the angle of view.
- 8.23 The current scheme as amended includes obscured glazing to the north and south elevations. Concern has been raised that the obscure glazing would be replaced with clear glass in the future. To prevent this, I recommend a condition requiring that all obscured glass shown on the submitted plans will be installed prior to occupation and remain as such (9). If this condition is breached, it will be open to the local planning authority to consider enforcement action.
- 8.24 The rear elevation of the proposed house includes two Juliet balconies. The balcony to the first floor has a low level balustrade and will allow limited views over the garden. The second floor balcony has a high level obscured screen which will provide high level clear glazing to the study/dressing room only. The views over the retained garden of 2 Shaftesbury Road will therefore be very restricted in comparable way to the approved schemes.
- 8.25 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 and 3/7.

Amenity for future occupiers of the site

- 8.26 The proposal includes a garden at the rear of the property of approximately 10m. This garden is not large, and is considerably smaller than the rear gardens of other houses in the area, but I consider it to be acceptable.
- 8.27 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

- 8.28 Bin storage is proposed within the building envelope. No concerns have been raised by Environmental Health but to ensure that the store is adequate I recommend a condition requiring details of bin storage (11).
- 8.29 In my opinion the proposal is compliant with Cambridge Local Plan (2006) policy 3/12.

Car and Cycle Parking

Car Parking

- 8.30 In common with the approved Round House scheme off-street parking spaces will be available at the front of the house, and it is proposed that vehicles will be able to enter and leave the frontage in a forward gear. Similarly, due to the existence of an on-street parking bay and the positioning of a lamppost, access will be problematic but will be possible. It is my view that this is acceptable. It will be for the applicants to pursue any necessary Traffic Regulation Orders to relocate the parking bay and I have added an informative to this effect (17).

Cycle Parking

- 8.31 In common with the approved Round House scheme a cycle store is proposed within the house. This meets the standards detailed in Appendix D (Cycle Parking Standards) of Cambridge Local Plan (2006) and is acceptable.
- 8.32 In my opinion the proposal is compliant with Cambridge Local Plan (2006) policies 8/6 and 8/10.

Third Party Representations

- 8.33 I have dealt with issues raised regarding the character, context and impact on the Conservation Area and Residential Amenity in the sections above. Outstanding matters and my response are as follows:

Loss of on street parking bay

- 8.34 I do not consider that the loss of the on street parking bay will have a significantly detrimental impact on existing residents. Most residents have off street car parking on their property. The lack of reference to the on street parking bay in the Design and Access Statement (DAS) is not crucial to the assessment of the application and is clearly a matter that needs to be resolved outside the planning process.

High water table and potential flooding of the basement

- 8.35 This is not a material planning consideration.

Inadequate space for tree planting

- 8.36 There is adequate space for tree planting on the street frontage while still providing necessary car parking space.

The proposed building looks like an apartment block and could be used for this purpose in the future

- 8.37 I think it very unlikely that the house could be converted to flats but planning permission would be needed for such a change of use.

There were no pre-application discussions with neighbours

- 8.38 The applicant is encouraged to have pre-application discussions but the absence of such discussions is not adequate grounds for refusal.

No scales are shown on the plans, External materials are not shown, There are errors in the Design and Access Statement in relation to the use of adjacent buildings, the roof form and incorrect annotations

- 8.39 The plans are to scale and external materials are shown on the amended plans. There are minor errors in the DAS but these are not fatal to the proper consideration of the application.

Statements regarding the restrictive covenant are misleading/not relevant

- 8.40 The restrictive covenant is not a material planning consideration and the Committee should not take it into account in determining the application.

Planning Obligations

- 8.41 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

- 8.42 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.

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

Outdoor sports facilities					
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	1	714
4-bed	4	238	952		
Total					714

Indoor sports facilities					
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	1	807
4-bed	4	269	1076		
Total					807

Informal open space					
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	1	726
4-bed	4	242	968		
Total					726

Provision for children and teenagers					
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	1	948
4-bed	4	316	1264		
Total					948

8.44 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

8.45 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:

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

8.46 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

- 8.47 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:

Waste and recycling containers			
Type of unit	£ per unit	Number of such units	Total £
House	75	1	75
Flat	150		
Total			75

- 8.48 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

- 8.49 The Planning Obligation Strategy (2010) requires that all new residential developments contribute to the costs of monitoring the implementation of planning obligations. It was agreed at Development Plans Scrutiny Sub-Committee on 25 March 2014 that from 1 April 2014 monitoring fees for all financial and non-financial planning obligations will be 5% of the total value of those financial contributions (up to a maximum of £50,000) with the exception of large scale developments when monitoring costs will be agreed by negotiation. For this application a monitoring fee of £257.60 is required.

Planning Obligations Conclusion

- 8.50 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 This site has a complex planning history and concerns have been raised about the impact which any development will have on the character of the Conservation Area and the amenities enjoyed by neighbours both in relation to this scheme and previous schemes. The approval of the Round House is a significant material consideration and my assessment has demonstrated that there is a high degree of similarity between that approved scheme and the current scheme.
- 9.2 In my view the proposed development will have a positive impact on the Conservation Area and potential adverse impacts on residential amenity have been successfully mitigated. I recommend that the application be approved.

10.0 RECOMMENDATION

APPROVE subject to the satisfactory completion of the s106 agreement by 31 August 2014 and subject to the following conditions and reasons for approval:

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. 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)

4. 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)

5. 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. This should include a brick sample panel constructed on site. 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)

6. Details of the specification and position of fencing, or any other measures to be taken for the protection of any trees from damage during the course of development, shall be submitted to the local planning authority for its written approval, and implemented in accordance with that approval before any equipment, machinery or materials are brought onto the site for the purpose of development (including demolition). 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)

7. 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, 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)

8. No development shall take place until there has been submitted to and approved by the local planning authority in writing a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with a timetable agreed in writing with the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure an appropriate boundary treatment is implemented. (Cambridge Local Plan 2006 policies 3/4, 3/11 and 3/12)

9. All glazing identified as being obscured glazing on the submitted plans shall be obscure glazed to a minimum level of obscurity to conform to Pilkington Glass level 3 or equivalent and fixed shut prior to occupation and shall be retained as such thereafter.

Reason: In the interests of residential amenity (Cambridge Local Plan 2006 policies 3/4 and 3/12).

10. Prior to the commencement of development full details of a method for of dust suppression shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: In the interests of residential amenity. (Cambridge Local Plan 2006, policy 4/13)

11. Prior to occupation of the use hereby permitted, details of the on-site storage facilities for waste, including waste for recycling shall be submitted to and approved in writing by the local planning authority. The approved arrangements shall be retained thereafter.

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))

12. 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 windows or dormer windows other than those expressly authorised by this permission shall be constructed.

Reason: To protect the amenity of adjoining properties. (Cambridge Local Plan 2006 policies 3/4 and 3/14)

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. 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)

16. The manoeuvring area 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)

INFORMATIVE: The applicant is advised that a Traffic Regulation Order will be required in order to relocate the on-street parking bay.

INFORMATIVE: The applicant is advised that the residents of the new dwelling will not qualify for Residents' Permits (other than visitor permits) within the existing Residents' Parking Schemes operating on surrounding streets

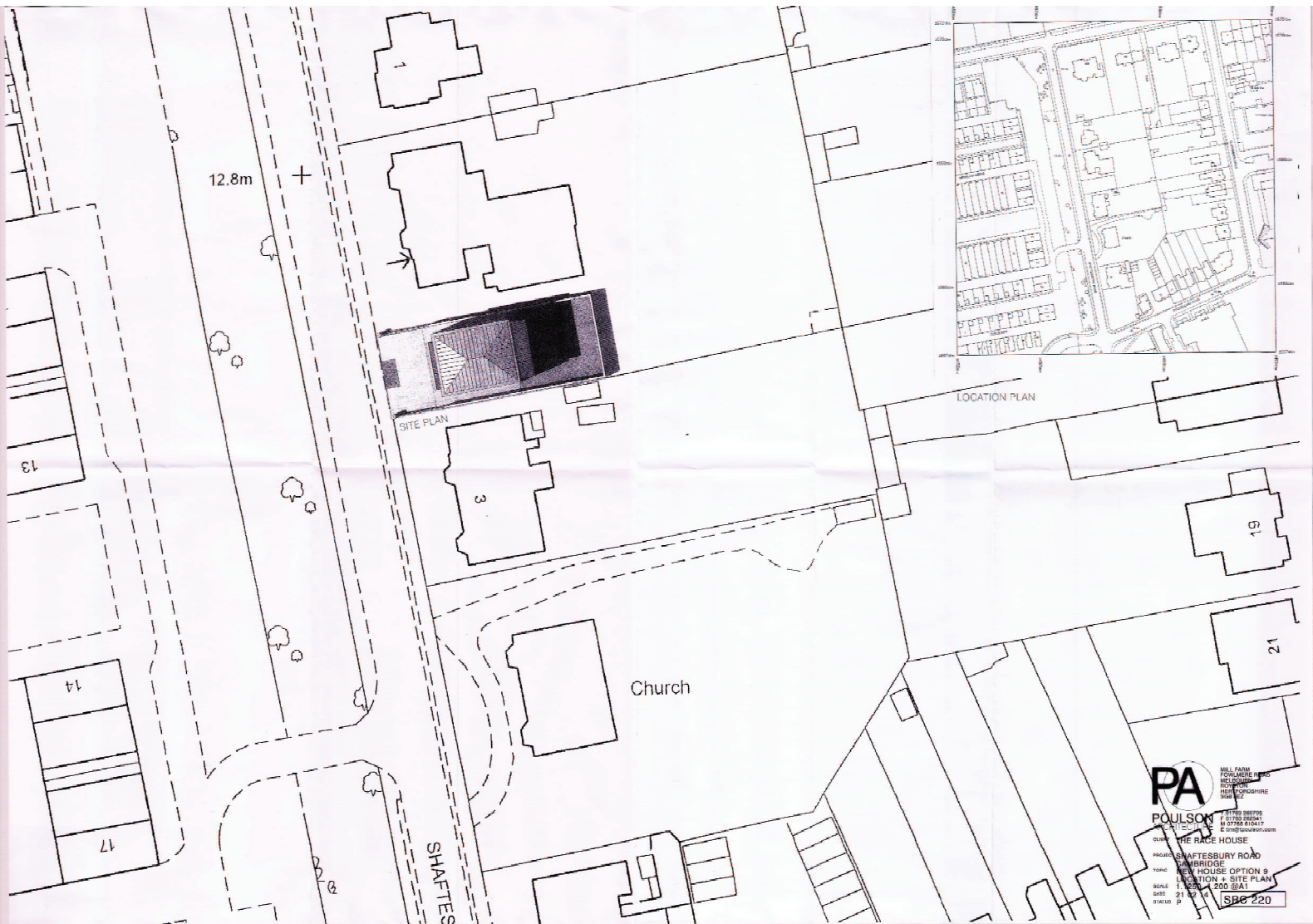
INFORMATIVE: New development can sometimes cause inconvenience, disturbance and disruption to local residents, businesses and passers by. As a result the City Council runs a Considerate Contractor Scheme aimed at promoting high standards of care during construction. The City Council encourages the developer of the site, through its building contractor, to join the scheme and agree to comply with the model Code of Good Practice, in the interests of good neighbourliness. Information about the scheme can be obtained from The Considerate Contractor Project Officer in the Planning Department (Tel: 01223 457121).

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 31st August 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):

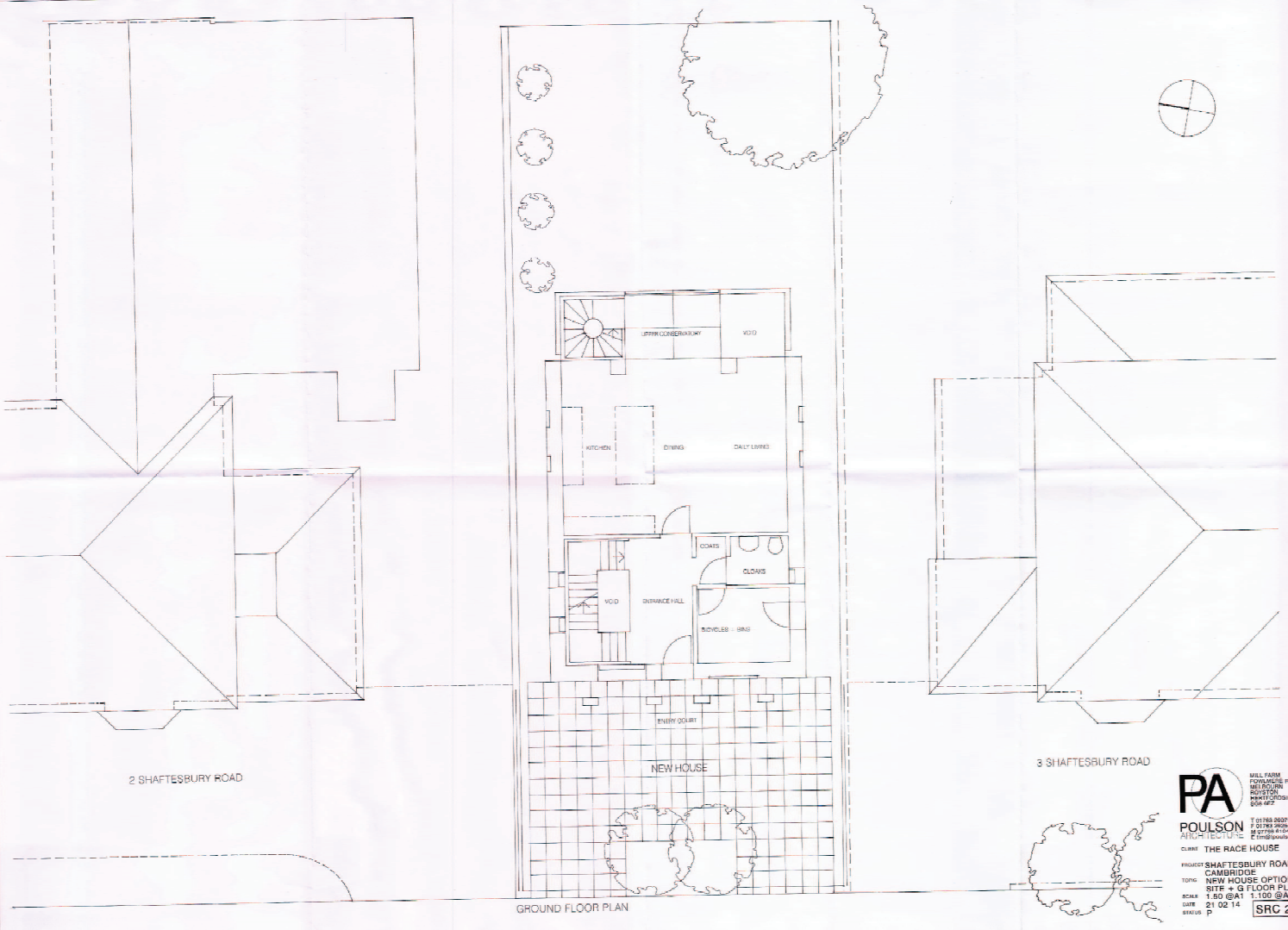
The proposed development does not make appropriate provision for public open space, community development facilities, waste facilities, and monitoring in accordance with Cambridge Local Plan 2006 policies 3/7, 3/8, 3/12, 5/5, 5/14, 8/3 and 10/1 and as detailed in the Planning Obligation Strategy 2010, and the Open Space Standards Guidance for Interpretation and Implementation 2010

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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GROUND FLOOR PLAN

PA
POULSON
 ARCHITECTS

MILL FARM
 FRODOBACH ROAD
 MELTON
 LEICESTERSHIRE
 LE19 2JY

T 01753 262705
 F 01753 262747
 E info@poulson.com
 W www.poulson.com

CLIENT THE RACE HOUSE

PROJECT SHAFESBURY ROAD
 CAMBRIDGE

TITLE NEW HOUSE OPTION 8
 SITE + G FLOOR PLAN

SCALE 1:50 @A1 1:100 @A3

DATE 21.02.14

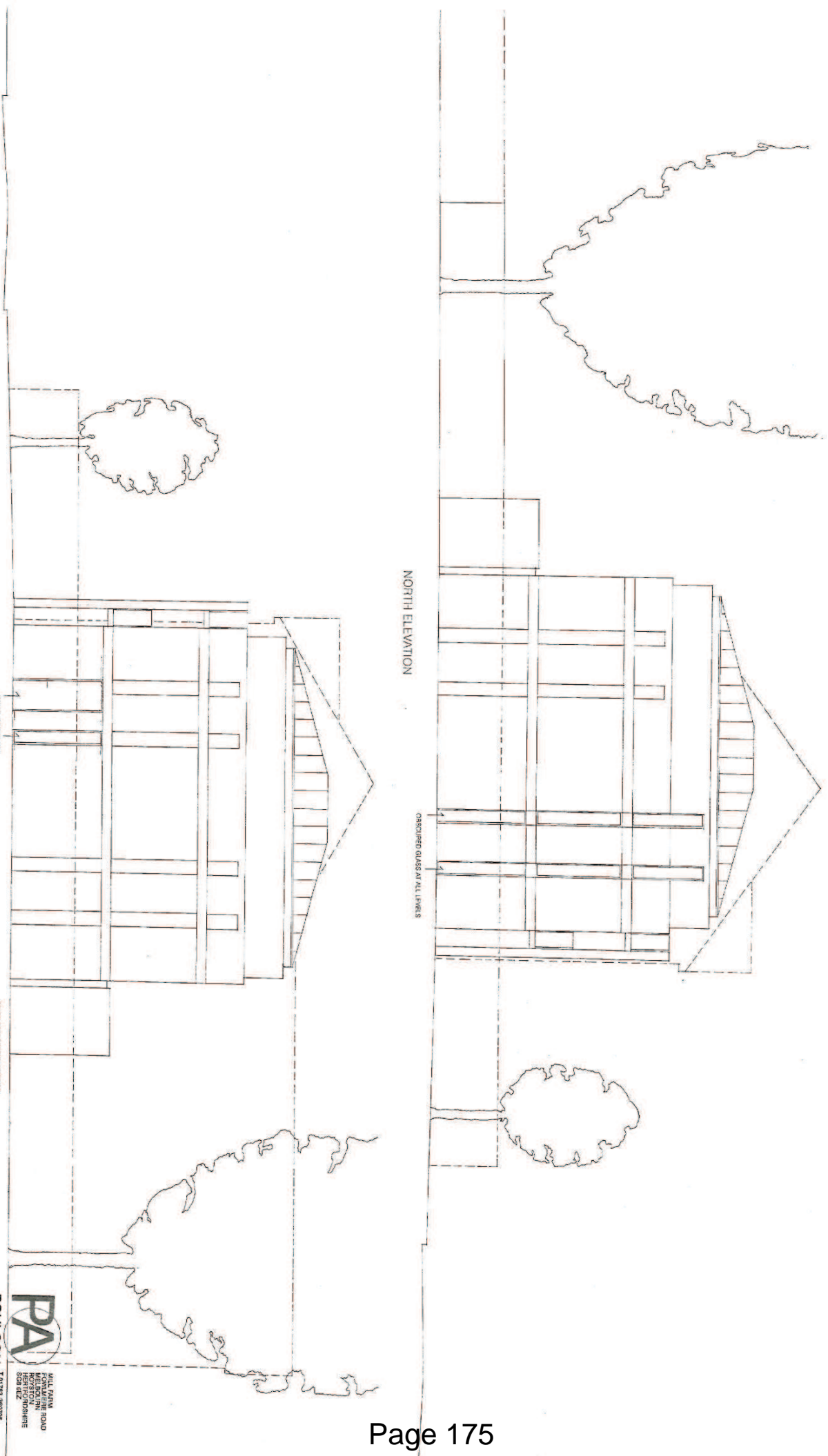
REVISION P

SRC 221

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NORTH ELEVATION

SOUTH ELEVATION

OSCRIPED GLASS

OSCRIPED GLASS AT ALL LEVELS

SCHEDULE OF MATERIALS AND FINISHES

WALLS

ROOF

WINDOWS

INTERIORS

ROOFING

ROOFING

EXTERIOR WALLS: BRICK WITH STUCCO FINISH. INTERIOR WALLS: GYPSONUM BOARD WITH STUCCO FINISH. ROOF: ASBESTOS/FLY ASH SHINGLES. FLOORING: POLISHED CONCRETE. FINISHES: SEE SCHEDULE OF MATERIALS AND FINISHES.



MILL BURN
FOUNDAZIONE ROAD
MONTICELLO
VA 22901

POULSON
ARCHITECTURE
150 @A1

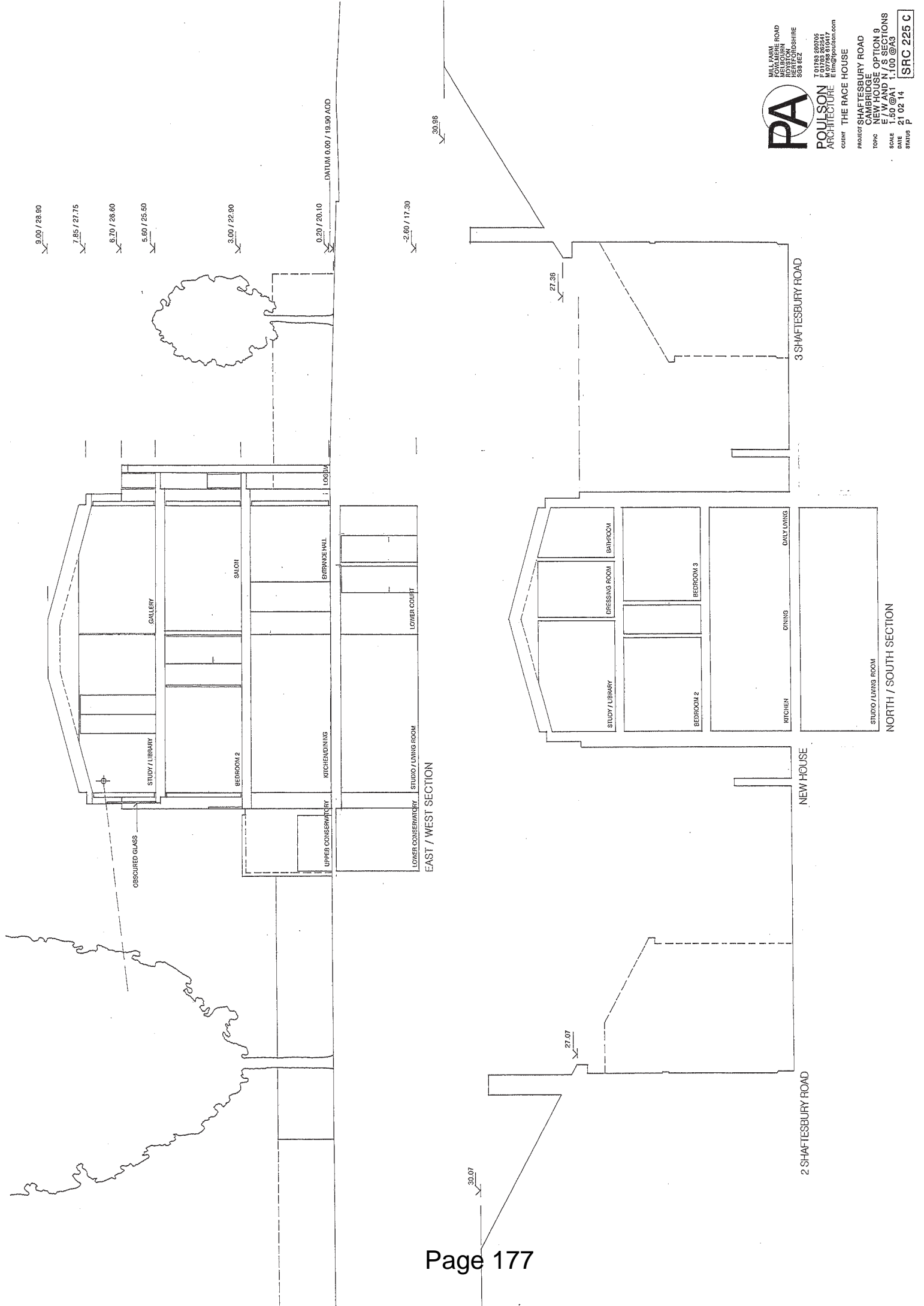
PROJECT: THE RACE HOUSE
CAMBRIDGE

DATE: 1/10/03
SCALE: 1/8" = 1'-0"

PROJECT: SHAFER/JURY ROAD
NEW HOUSE OPTION 9
NORTH-SOUTH ELEVATIONS

DATE: 1/10/03
SCALE: 1/8" = 1'-0"
PROJECT: SRC 224 A

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9.00 / 28.90
 7.85 / 27.75
 6.70 / 26.60
 5.60 / 25.60

3.00 / 22.50
 0.20 / 20.10

2.60 / 17.30

30.96

DATUM 0.00 / 19.50 AOD

30.07

27.07

27.36

PA
 MILL FARM ROAD
 MELBOURN
 EAST SUSSEX
 TN11 9JZ

POULSON
 ARCHITECTURE
 101785 262545
 01783 262545
 01783 262545
 E: info@poulson.com

CLIENT THE RACE HOUSE
 PROJECT SHAFTESBURY ROAD
 CAMBRIDGE
 NEW HOUSE OPTION 9
 TOPS
 SCALE E/W AND N/S SECTIONS
 1:50 @A1 1:100 @A3
 DATE 21.02.14
 DRAWING NO. SRC 225 C

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SOUTH AREA COMMITTEE 23rd June 2014

Application Number	14/0208/FUL	Agenda Item	
Date Received	28th March 2014	Officer	Mrs Angela Briggs
Target Date	23rd May 2014		
Ward	Queen Ediths		
Site	38 Almoners Avenue Cambridge CB1 8PA		
Proposal	Demolish existing detached dwelling and erect two detached dwellings.		
Applicant	C/o Agent		

SUMMARY	<p>The development accords with the Development Plan for the following reasons:</p> <ul style="list-style-type: none"> <input type="checkbox"/> The proposed development respects the form and character of the area; <input type="checkbox"/> The proposed development would not have a significant adverse impact on neighbours; <input type="checkbox"/> The proposed development would not be detrimental to trees which are the subject of a Tree Preservation Order <input type="checkbox"/> The scheme successfully addresses the reasons for refusal of the 2013 scheme.
RECOMMENDATION	APPROVAL

1.0 SITE DESCRIPTION/AREA CONTEXT

- 1.1 The site lies to the south-east of Cambridge and is accessed from Queen Edith's Way. Pedestrian access is also gained from Bowers Croft to the south via a public footpath. The site is currently occupied by a two storey detached dwelling (currently vacant) with a detached single garage accessed from Almoners Avenue. Almoners Avenue is characterised mainly by detached two storey properties built in the 1960s. To the north is Topcliffe Way which is wholly residential and of a similar

character. To the south east is Bowers Croft which is also residential. The site is situated at the end of a cul-de-sac and the plot is substantially bigger than the others along Almoners Avenue. There is an electricity sub-station situated on the edge of the plot (but not inside it), and it is separated around its perimeter by a boundary fence. The site does not fall within the Conservation Area or the Controlled Parking Zone (CPZ).

- 1.2 On the western boundary of the site are three mature trees, a Lime, a Beech and a Cherry tree. To the front of the existing dwelling is a Silver Birch tree. These trees are protected by a Preservation Order (TPO).

2.0 THE PROPOSAL

- 2.1 The full application proposes to demolish the existing dwelling and garage, and erect two detached four bedroom houses with ancillary parking.

- 2.2 The application follows a previous application (Ref: 13/0891/FUL) for three dwellings, which was refused, and is currently subject of an appeal.

- 2.3 There were four reasons for refusal which are as follows:

1. The proposal for the erection of three dwellings on the site would introduce a form of development that would be contrary to the prevailing form and character of Almoners Avenue. The proposed dwellings would occupy a large proportion of the plot, particularly in the case of plots 1 and 2 on the amended layout plan, and therefore would appear to be at odds with the existing plot ratio of Almoners Avenue in which the house to plot ratio is more uniform comprising of detached dwellings within spacious rectangular shaped plots. The erection of three dwellings on the site is therefore considered to result in a cramped form of development and not in keeping with the character of the area. The proposed development therefore fails to comply with the aims and objectives of Cambridge Local Plan (2006) policies 3/4, 3/7, 3/10, 3/11 and 3/12.
2. The proposed development, in particular plots 1 and 2, would provide a poor standard of private amenity for the future occupiers by virtue of being severely over-shadowed by the

existing mature trees along the rear boundary, and by the lack of natural light that the rear garden would receive due to their orientation on the site. The proposed development would therefore be contrary to the aims and objectives of the Cambridge Local Plan (2006) policies 3/7 and 3/10.

3. The proposed development would have an impact on the existing remaining trees on the site. The application was not accompanied by a full Arboricultural report and as such the extent of the impact of the proposed development on the trees is unknown. The trees are considered to make a positive contribution to the visual amenity of the area and to the site itself. The application fails to provide sufficient information to confirm that the trees will not be adversely affected by the proposed development and as such is contrary to the aims and objectives of the Cambridge Local Plan (2006) policy 4/4.

4. 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 and 5/14. Cambridgeshire and Peterborough Structure Plan 2003 policies P6/1 and P9/8 and as detailed in the Planning Obligation Strategy 2010 and the Open Space Standards Guidance for Interpretation and Implementation 2010.

3.0 SITE HISTORY

Reference	Description	Outcome
13/0891/FUL	Demolish existing detached dwelling and erect three detached dwellings.	Refused. Appeal pending.

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 3/11 3/12 4/4 4/7 5/1 5/14 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)
	<u>City Wide Guidance</u> Arboricultural Strategy (2004) Cycle Parking Guide for New Residential Developments (2010)

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, there are no policies in the emerging Local Plan are of relevance/the following policies in the emerging Local Plan are of relevance:

6.0 CONSULTATIONS

Cambridgeshire County Council (Highways Development Management)

6.1 No objection.

Head of Refuse and Environment

6.2 No objections subject to conditions relating to: Construction Hours, Collections/deliveries during construction, Dust, Piling, Electricity Sub-station (noise).

Cambridge City Council Nature Conservation Officer

6.3 No objection to the submitted Ecology report. Recommend condition to enhance the habitat for birds and bat boxes as per the manufacturers guidelines.

6.4 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:

Neither supporting nor objecting:

- 7 Bowers Croft;
- 53 Almoners Avenue

Objecting:

- 36, 49, 51, 59 Almoners Avenue
- 14 Topcliffe Way

7.2 The representations can be summarised as follows:

Neither supporting nor objecting:

- No objection to the revised plans , provided that the fencing along the SSW boundary is maintained;
- Glad to see proposal reduced from three to two houses;
- Concern about the access to the site and the use of the cycle-footpath adjacent to the proposed properties;
- Uninspiring design, but fits in well with the area;
- Concern with construction vehicles and deliveries/parking;
- Concern that houses will be rented out for multiple occupancy.

Objecting:

- Breaches the restrictive covenant on the property;
- The proposal would over-shadow and over-look no.36 Almoners Avenue;
- Loss of privacy and loss of light;
- Inappropriate development in the area and out of character;
- Why is this development needed when an area of Green Belt land (Worts' Causeway – GB1) has just been released for housing development, not far away from Almoners Avenue?
- Inadequate access;
- Increase in traffic in the area;
- Drainage problems;
- The height of the houses should be reduced (existing height = 6.85m, proposed height = 7.8m);

- Trees need to me maintained along the boundaries.

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 and Landscaping
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 Policy 5/1 of the Local Plan is generally supportive of residential development. Proposals for housing development on windfall sites will be permitted subject to existing land use and compatibility with adjoining uses. I am aware that this site is situated within a built up residential area, therefore the principle of further residential development on this site is supported. Furthermore, the principle of development on garden land is normally considered to be acceptable, subject to other material considerations. Garden land was considered to be brownfield land in PPG3 (now abolished). However, paragraph 53 of the NPPF advises that Local Planning Authorities now need to consider whether the loss (or the erosion) of this area as a green space to development, would be detrimental to the character of the area. In my view, given that the site is tucked away at the end of the cul-de-sac and appears to be the only plot that is much larger than those along Almoners Avenue, I do not consider that the development of the site for residential use, would have a significant impact on the character of the area.

- 8.3 The principle of development was not given as a reason for refusal on the previous application.
- 8.4 In my opinion, the principle of the development is acceptable and in accordance with policy 5/1 of the Cambridge Local Plan (2006).

Context of site, design and external spaces

- 8.5 Almoners Avenue has a relatively uniform street pattern whereby it is characterised by detached dwellings on similar sized rectangular-shaped plots. This pattern is somewhat different at the end of the cul-de-sac where the plots become less rectangular, but are still relatively spacious given the size of the houses occupying them. No.38 Almoners Avenue is situated on an irregular shaped plot and bounded by properties at Bowers Croft and Topcliffe Way (both of two-storey detached houses). To the front and crossing along the side of the site is a pedestrian footpath which links Almoners Avenue to Bowers Croft. This is lined by a number of semi-mature trees. Set back from the footpath is an electricity sub-station which is enclosed entirely and separated from the site and the public footpath, but accessed from the footpath.
- 8.6 The introduction of two detached dwellings on this site, in my view, is acceptable. The reduction of one dwelling, from the previous application, has meant that the dwellings benefit from more spacious surroundings to reflect the spacious character of Almoners Avenue. The shape of the site is an anomaly which does not reflect the more formal plot shapes of Almoners Avenue, and thus the potential to create a sustainable development for residential.
- 8.7 Due to the narrow frontage, the proposed dwellings have been pushed back into the site. The architecture of Almoners Avenue and Bowers Croft is characterised by houses set back a short distance from the street and to some extent the position of the houses will be an anomaly. The style of existing houses is very traditional with pitched roofs parallel the street and brick/weather boarding frontages. The proposed buildings are of a similar style to the existing houses. As they are pushed back, the proposed dwellings would not be as visible in the street scene, than the existing houses along Almoners Avenue, are. Notwithstanding this, I do not consider that the proposed

design approach would significantly harm the integrity of the streetscene and they would be read as being a later addition to the street. The different designs of Plot 1 and Plot 2 help to bring interest to the development whilst still maintaining the design ethos of the area. Plot 1 is the dwelling nearest to no.7 Bower Croft. Plot 2 is nearest no.36 Almoners Avenue. Plot 1 will have a detached single garage, perpendicular to the dwelling. Plot 2 would have an attached garage.

- 8.8 The access to the site would be from the existing point. To the rear of the proposed plots, the site would be separated to create two residential curtilages. The proposed development, in my view, provides sufficient amenity space which also reflects the character of Almoners Avenue. The mature landscaping along the rear and side boundaries will be enhanced to ensure that privacy is maintained to those dwellings beyond the site boundaries who are no.7 Bowers Croft, nos.12 and 14 Topcliffe Way and no.36 Almoners Avenue. Further consideration of the trees and landscaping is discussed below.
- 8.9 The proposal, subject of this application, seeks to address the first reason for refusal, by reducing the number of dwellings from three to two, allowing for larger plot sizes and a better relationship with the surrounding built environment. The proposal would also concur with the character of the area of relatively large dwellings, set back from the road, situated on spacious plots.
- 8.10 In my opinion the proposal is compliant with Cambridge Local Plan (2006) policies 3/4, 3/7, 3/11, 3/12.

Trees and Landscaping

- 8.11 Since the refusal of the previous application, 4no. trees have been served a Protection Order. These trees are considered to have a high amenity value and therefore should be retained. Three of these trees are along the south western boundary of the site, and a Silver Birch which is on the site frontage. The proposed plans indicate that these trees are to be retained and therefore this is supported. The neighbours are concerned about how the trees will be maintained. I consider that a condition relating to tree protection would be reasonable in this case (condition 4).

- 8.12 In terms of general landscaping on the site, the plans indicate various areas of soft landscaping, to the frontage, as well as to the rear, with some areas of hard landscaping.
- 8.13 The proposal, subject of this application, seeks to overcome the third reason for refusal by retaining the protected trees and ensuring that the dwellings are kept away from the tree canopy. This is therefore supported and would help to enhance the development by retaining important existing trees on the site.
- 8.14 In my opinion the proposal is compliant with Cambridge Local Plan (2006) policies 3/11 and 4/4.

Residential Amenity

Impact on amenity of neighbouring occupiers

- 8.15 The site abuts four neighbours; 36 Almoners Avenue, to the east, nos.12 & 14 Topcliffe Way, to the north, and no.7 Bowers Croft to the west. Nos. 12 & 14 Topcliffe Way are furthest away and sit on relatively spacious plots. The rear boundary treatment of these properties are quite mature and, in my view, I do not consider that the proposed development would have a significant impact on their amenity due to the distances between them. The distance from the rear of the new dwellings to no.12 Topcliffe Way is approximately 35m. The distance from the same point from 14 Topcliffe Way is 31m. Elsewhere, the site boundaries are currently also mature on both sides. I understand that some planting will need to be removed in order to accommodate the proposed development. Boundary treatment details could be secured by condition to ensure that adequate screening can be retained. However, a good degree of mature boundary treatment would remain. The neighbours who would be most affected, in my view, would be 36 Almoners Avenue and 7 Bowers Croft, as they are closest. 36 Almoners Avenue is the next door neighbour and would be 7m away from the edge of Plot 2. 7 Bowers Croft would be 18m away from the single storey element of Plot 1.
- 8.16 In terms of scale, the proposed dwellings would be about 1m higher than the existing surrounding properties. But, given the position and orientation of the dwellings and the design approach, the dwellings would be noticeable but I do not consider that the dwellings would unduly compete with the

surrounding dwellings or significantly dominate the neighbours' outlook.

- 8.17 The design of plot 2 (which mainly affects 36 Almoners Avenue) means that the main bulk of the dwelling is stepped away from the boundary with 36 Almoners Avenue, with the flat roof single storey garage being closest to this boundary. I note that there is a garage on the boundary with the site, belonging to 36 Almoners Avenue and therefore this relationship is considered to be acceptable. In terms of over-looking Plot 2 has no side facing windows towards 36 Almoners Avenue, except for a small side window serving the landing which is accommodated at the front of the dwelling within the gable end element, on the front elevation. This area is served by a main window facing towards the front. I therefore would recommend that the side windows (both sides) could be obscurely glazed, which can be achieved by way of a condition. This would still allow light to penetrate, but reduce the perceived over-looking from these windows.
- 8.18 The design of plot 1 (which mainly affects 7 Bowers Croft) is less articulated than plot 2, but incorporates a single storey element which wraps around the front and side. This element is 3.7m from the boundary with 7 Bowers Croft and measures less than 3m in height. I consider this element is acceptable and unlikely to cause undue harm. The gable end wall of plot 2 does not have any windows at first floor level and therefore I do not consider that any direct over-looking would occur. There will be rear facing windows (serving bedrooms 1 and 2) which may cause some perceived over-looking. However, given the relationship with the boundary and orientation, it is unlikely that any over-looking will be significant and therefore I consider this to be acceptable.
- 8.19 In terms of over-shadowing, the proposed dwellings are to the west of 36 Almoners Avenue, which means that some afternoon sunlight will be affected by plot 2, as the sun moves round. However, I do not consider that this would be substantial as the element closest to the boundary is single storey only and would allow light through and would be no different to the current situation. The two storey 'wing' element to the rear of plot 2, is set further away and therefore in my view, I do not consider that this would cause a great degree of loss of light.

8.20 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 and 3/7.

Amenity for future occupiers of the site

8.21 The proposed dwellings would sit in spacious plots among other dwellings. The relationship with the surrounding built environment is considered to be acceptable, subject to appropriate hard and soft landscaping.

8.22 The proposed design, in my view, would ensure that sufficient privacy can be achieved between the two dwellings and that the splitting of the site can be achieved successfully, giving good amenity areas for both properties. Off street parking is provided for both dwellings which would mean less pressure on competition for on-street parking in the area.

8.23 The site is located close to an electricity sub-station. This has been acknowledged by the Environmental Health team, who have recommended a condition to ensure that the properties are mitigated against any noise emanating from the sub-station. I consider this condition is necessary and reasonable.

8.24 The proposal, subject of this application, seeks to overcome the second reason for refusal by reducing the number of dwellings from three to two, and thereby allowing the dwellings to site on more spacious plots, be re-positioned away from the boundaries and tree canopies. This would also improve the amount of natural light that the rear gardens would receive.

8.25 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

8.26 No refuse store is indicated on the plans. However, there is sufficient space on both plots to comfortably accommodate a

refuse store, in my view. Further details of waste management can be secured by condition (condition 15).

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

Highway Safety

- 8.28 The Local Highways Authority initially raised a concern about the width of the access, which was not clear on the plans. The existing access would be utilised to serve the two proposed dwellings and measures 4.5m in width. The Local Highways Authority have confirmed that this is acceptable.

- 8.29 The neighbours have raised concerns about the potential increase in traffic generation in the area as a result of the proposal. The site is located at the end of a cul-de-sac and adjacent to a public foot path which links Almoners Avenue and Bowers Croft. There is no intention to affect this right of way, or to open it up to vehicles. I therefore do not consider that this would be affected. In terms of the increase in traffic, the proposed development would result in a net gain of one dwelling. I do not consider that it would be reasonable to refuse planning permission on the basis that one (net) additional dwelling would compromise highway safety. Furthermore, the Local Highways Authority Officer has not raised this as a concern.

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

Car and Cycle Parking

- 8.31 The proposed development incorporates off-street car parking and garage accommodation for each dwelling. This concurs with the character of the street where most dwellings have off-street parking facilities. There is also sufficient space for cars to be able to turn and exit in a forward gear. I therefore consider this provision to be acceptable.

- 8.32 In terms of cycle parking, there are no details submitted with the plan. However, I consider that there is ample space for each dwelling to accommodate cycle parking. This can be

achieved by way of a condition requiring further cycle parking details (condition 5).

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

Third Party Representations

- 8.34 I have address most of the concerns from the neighbours. However, I would comment as following on the outstanding issues:

Construction vehicle parking:

Whilst I understand that there will always be some obstruction or inconvenience of construction vehicles parking on the street, if vehicles are obstructing the highway, this would be a civil matter with the Police.

Concern that houses will be let out as multiple occupancy:

The application makes no indication of this. If this were to be the case, planning permission for a change of use would be required if the dwellings are occupied by more than six people.

Breaches the restrictive covenant:

Covenants are not a material planning consideration and as such we cannot give any weight to this concern. If planning permission is granted, this would not override any other legal obligation on the land, such as covenants, rights of way etc.

Why is this development needed when an area of Green Belt land (Worts' Causeway – GB1) has just been released for housing development, not far away from Almoners Avenue?:

This site is a windfall site, which is supported by Policy 5/1 of the Local Plan. The site is considered to be sustainable, within an established residential area, with the potential for re-development. The allocation of GB1 for housing falls under the new deposit Local Plan, which is yet to be adopted. Therefore, we are required to assess all applications against the current adopted Local Plan, which I have already concluded, is acceptable.

Drainage problems:

The application indicates that drainage would be via the existing sewers. The area is not located within an area of high flood risk (as shown on the Environment Agency's flood Map), and as such specific details of surface water drainage is not necessary for planning purposes, in this case. Technical details of drainage would be covered under Building Regulations. The Environment Agency have not raised a concern about this from a drainage point of view.

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 two four-bedroom houses. One residential unit would be removed, so the net total of additional residential unit is one. 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:

Outdoor sports facilities					
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
Total					952

Indoor sports facilities					
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
Total					1076

Informal open space					
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
Total					968

Provision for children and teenagers					
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
Total					1264

8.38 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

8.39 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:

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

8.40 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

8.41 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:

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

8.42 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

8.43 The Planning Obligation Strategy (2010) requires that all new residential developments contribute to the costs of monitoring the implementation of planning obligations. It was agreed at

Development Plans Scrutiny Sub- Committee on 25 March 2014 that from 1 April 2014 monitoring fees for all financial and non-financial planning obligations will be 5% of the total value of those financial contributions (up to a maximum of £50,000) with the exception of large scale developments when monitoring costs will be agreed by negotiation. For this application a monitoring fee of £314.60 is required.

Planning Obligations Conclusion

8.44 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 In conclusion, I consider that the proposed development is acceptable and approval is recommended, subject to conditions.

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. No development shall take place until there has been submitted to and approved by the local planning authority in writing a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with a timetable agreed in writing with the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure an appropriate boundary treatment is implemented. (Cambridge Local Plan 2006 policies 3/4, 3/11 and 3/12)

3. Prior to the occupation of the dwellings, hereby permitted, a scheme for the type and location of bird and bat boxes shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall thereafter be implemented in accordance with the approved details.

Reason: To improve the bio-diversity contribution of the site (Cambridge Local Plan 2006 policies 3/1 and 4/7).

4. In this condition retained tree means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) below shall have effect until the expiration of two years from the date of the occupation of the building for its permitted use.

(a) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998 (Tree Work).

(b) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.

(c) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with British Standard 5837 and the approved plans and particulars before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the local planning authority.

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

5. 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)

6. The building shall not be occupied until the area identified on the approved plans for car parking has been drained and surfaced in accordance with details submitted to and approved by the local planning authority in writing and that area shall not thereafter be used for any other purpose than the parking of vehicles.

Reason: To avoid obstruction of the surrounding streets and in the interests of highway safety and convenience. (Cambridge Local Plan 2006 policies 8/2 and 8/10)

7. 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)

8. 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)

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 neighbours (Cambridge Local Plan 2006 policy 4/13)

10. 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 5228-1:2009 Code of Practice for noise and vibration control on construction and open sites. Development shall be carried out in accordance with the approved details.

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

Reason: To protect the amenity of neighbours (Cambridge Local Plan 2006, policy 4/13)

11. Part A:
Prior to the commencement of refurbishment/ development works, a noise report including a low frequency noise analysis and the provisions of British Standard (BS) 4142:1997 (Method for rating industrial noise affecting mixed residential and industrial areas) that considers the impact of the substation noise upon the proposed development shall be submitted in writing for consideration by the local planning authority.

Part B:

Following the submission of the noise report and prior to the commencement of refurbishment/ development works, a noise insulation scheme detailing the acoustic noise insulation performance specification of the external building envelope of the residential units (having regard to the building fabric, glazing and ventilation) for protecting the residential units from noise from the neighbouring industrial use shall be submitted to and approved in writing by the local planning authority. The scheme shall achieve the internal noise levels recommended in British Standard 8233:1999 Sound Insulation and noise reduction for buildings-Code of Practice. These levels shall be achieved with ventilation meeting both the background and summer cooling requirements.

The scheme as approved shall be fully implemented before the use hereby permitted is commenced and prior to occupation of the residential units and shall not be altered without prior approval.

Reason: To protect the amenity of future occupiers of the development (Cambridge Local Plan 2006, policies 3/7 and 4/13)

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or with any order revoking and re-enacting that Order with or without modifications) no windows or dormer windows shall be constructed other than with the prior formal permission of the local planning authority.

Reason: To protect the amenity of adjoining properties. (Cambridge Local Plan 2006 policies 3/4 and 3/14)

13. 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. The windows on the east and west elevations at first floor level (serving the landing) of Plot 2 shall be obscure glazed to a minimum level of obscurity to conform to Pilkington Glass level 3 or equivalent prior to commencement of use (of the extension) and shall have restrictors to ensure that the window cannot be opened more than 45 degrees beyond the plane of the adjacent wall and shall be retained as such thereafter.

Reason: In the interests of residential amenity (Cambridge Local Plan 2006 policies 3/4 and 3/12 or 3/14).

15. Prior to the occupation of the dwelling, hereby permitted, the on-site storage facilities for waste and recycling shall be submitted to and approved in writing by the Local Planning Authority. 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))

INFORMATIVE:

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

Council's Supplementary Planning Document Sustainable Design and Construction 2007:

<http://www.cambridge.gov.uk/public/docs/sustainable-design-and-construction-spd.pdf>

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

INFORMATIVE:

Electricity substations are known to emit electromagnetic fields. The NRPB has set standards for the release of such fields in relation to the nearest premises. The applicant is advised to contact The Health Protection Agency, Radiation Protection Division, Chilton, Didcot, Oxon OX11 0RQ, tel: 01235 831600 for advice regarding the electric/magnetic fields that are associated with electric substations.

INFORMATIVE:

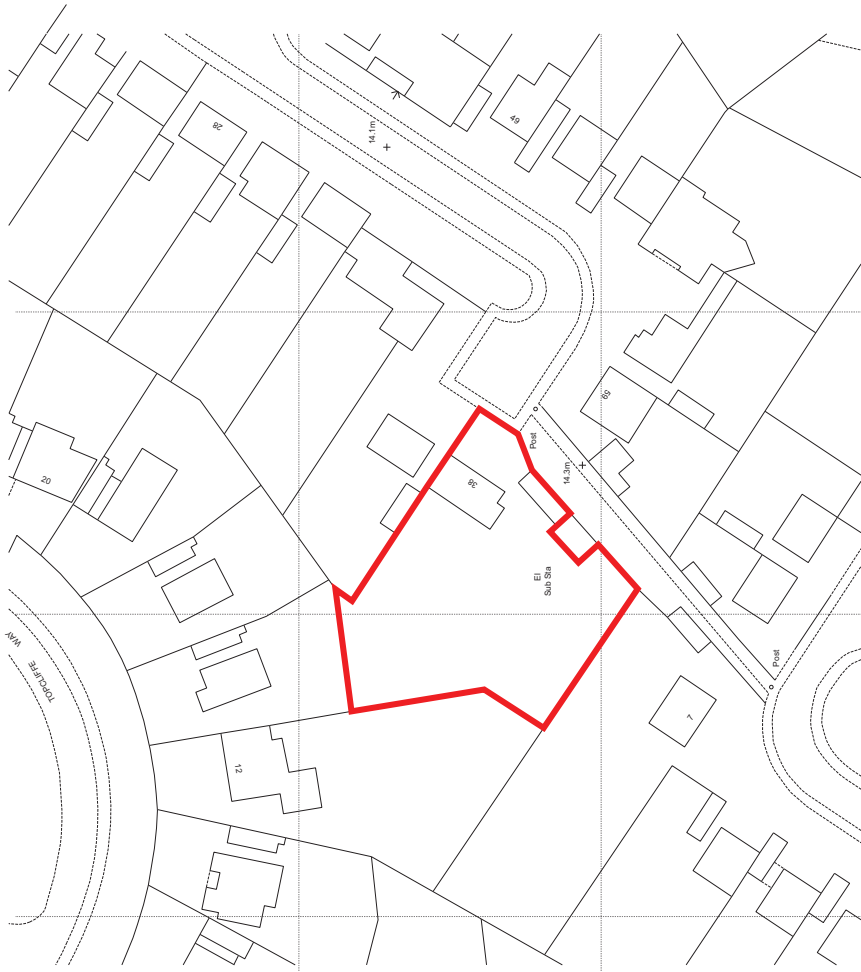
If during the works contamination is encountered, the Local Planning Authority should be informed, additional contamination shall be fully assessed and an appropriate remediation scheme agreed with the Local Planning Authority. The applicant/agent to need to satisfy themselves as to the condition of the land / area and its proposed use, to ensure a premises prejudicial to health situation does not arise in the future.

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 8th August 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, 5/14 the and as detailed in the Planning Obligation Strategy 2010, the Open Space Standards Guidance for Interpretation and Implementation 2010, Cambridgeshire and Peterborough Waste Partnership (RECAP): Waste Management Design Guide Supplementary Planning Document 2012

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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NOTES:
All dimensions must be checked on site and not scaled from this drawing.

Revisions	
A	Date



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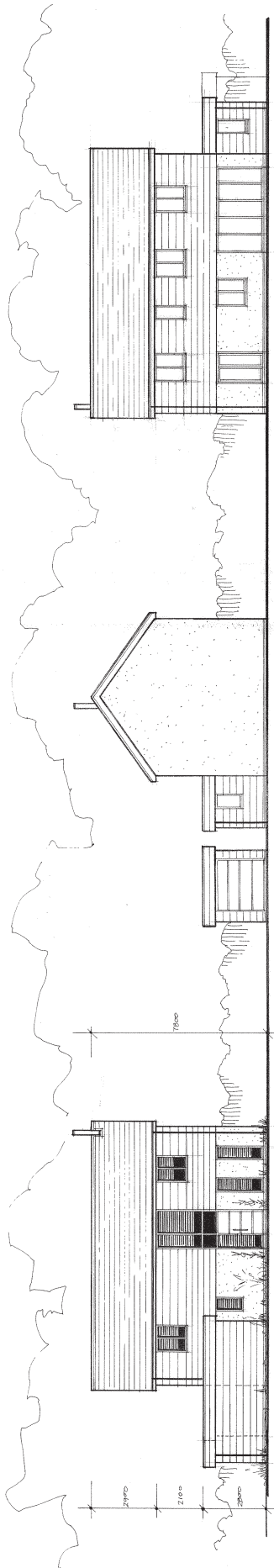
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Job Title: **RESIDED ZEPHYRUS - No 28 ALMINGTONS AVE, CAMBRIDGE.**

Drawing Title: **PROPOSED EXTERIOR AND FLOOR PLANS - FIRST FLOOR GARAGE**

Scale: 1/100
Date: 16/07/2015
Drawn by: CM

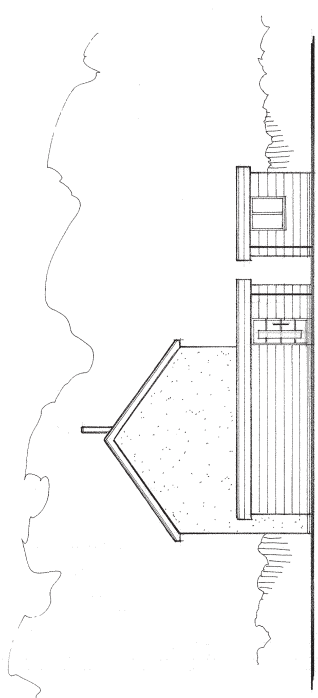
Rev.	Date
01	16/07/2015



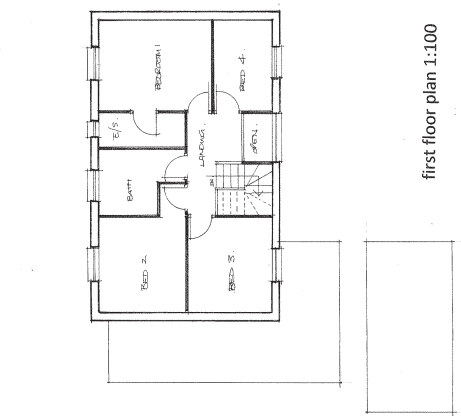
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side elevation 1:100

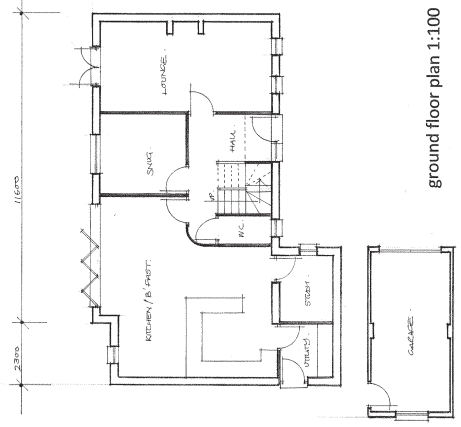
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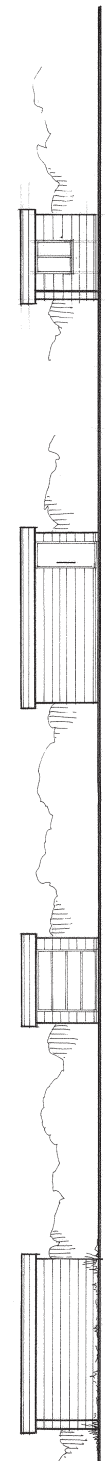
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first floor plan 1:100



ground floor plan 1:100

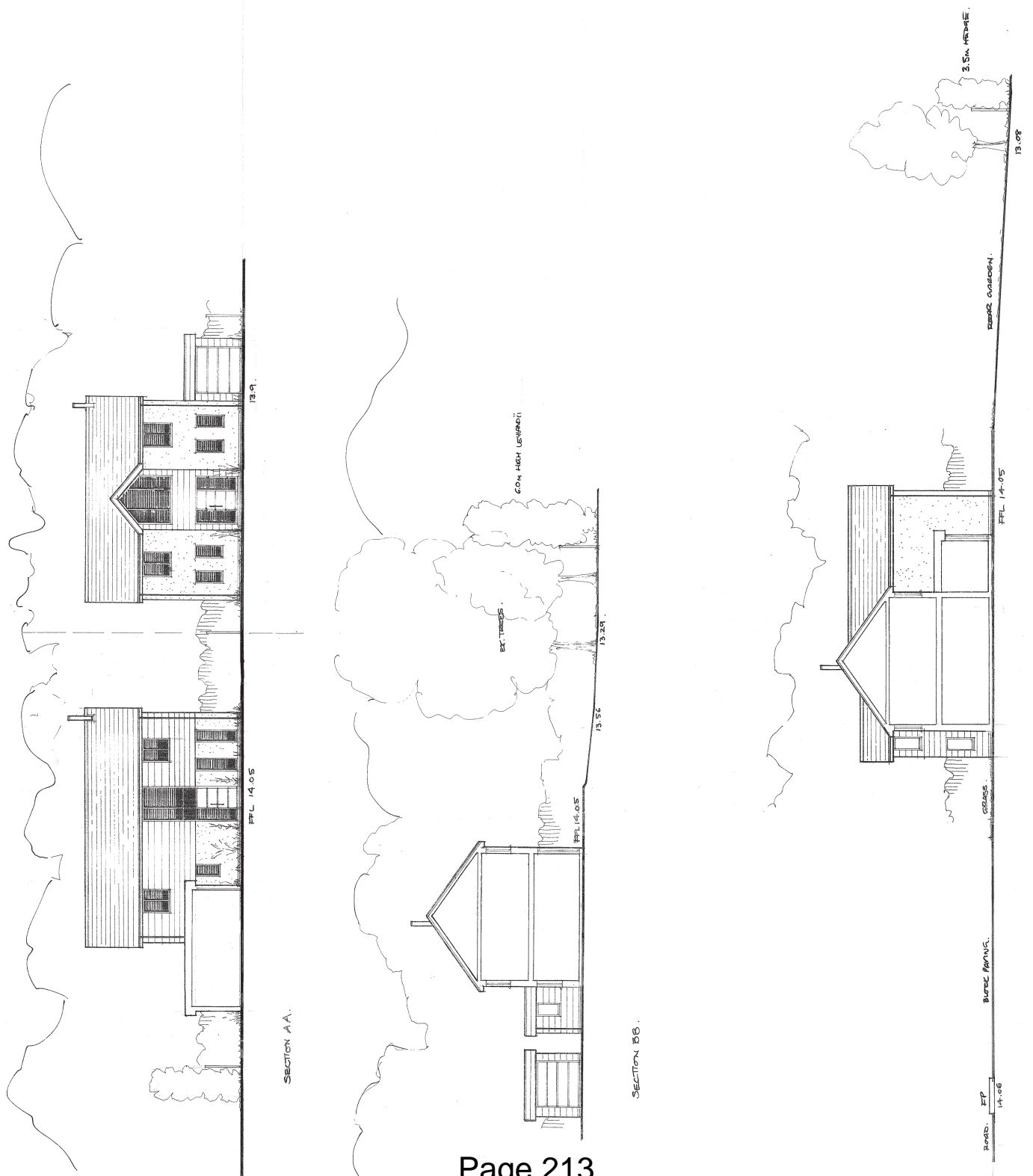


garage elevations 1:100

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Revisions	
A	Date

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Client: **WILLIAMS AND JONES LTD.**

Job Title: **PROPOSED DEVELOPMENT - NO.13 ADVANCEES AVE., CAMBRIDGE.**

Drawing Title: **PROPOSED SECTIONS.**

Scale: **1:100**

Date: **FEB 2014** Drawn by: **C.H.L.**

Drawn by: **C.H.L.**

Rev. No. **01/14/72_22**

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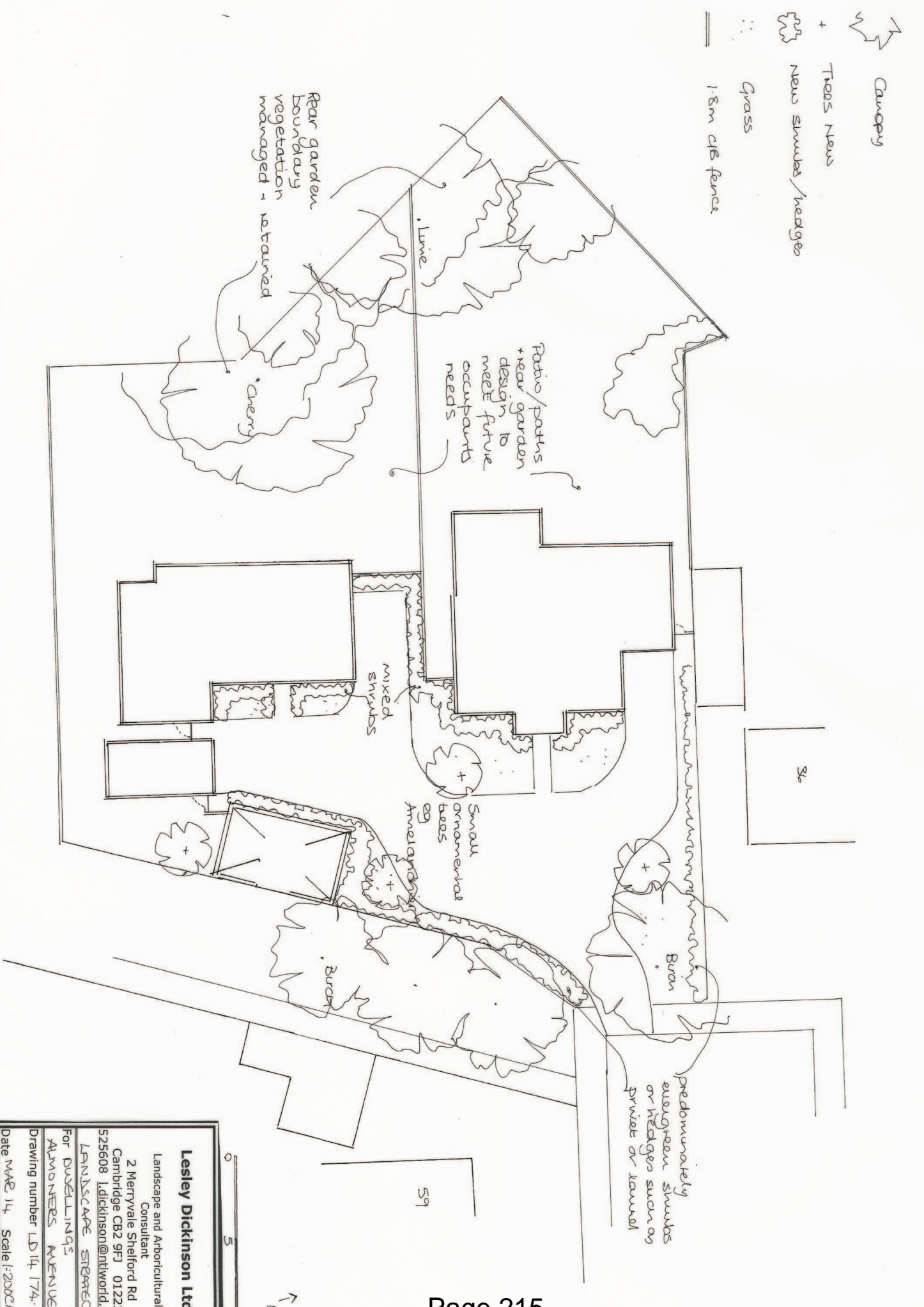
Canopy

+ Trees News

New shrubs/hedges

Grass

1.8m c/b fence



Rear garden boundary vegetation managed + retained

Lime

Cherry

Patio/paths + rear garden design to meet future occupants needs

Mixed shrubs

Small ornamental trees eg Amelanchier

Birch

Buckram

predominately evergreen shrubs or hedges such as privet or laurel

S6

S9

0 5 10

North arrow

Lesley Dickinson Ltd

Landscape and Arboricultural Consultant

2 Merryvale Shelford Rd
Cambridge CB2 9FJ 01223

525608 l.dickinson@ntlworld.com
LANDSCAPE STRATEGY

For DUSSELLING'S
ALMONERS AVENUE

Drawing number LD 14.174.2A

Date WAE 14 Scale 1:200CA3

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Application Number	14/0272/FUL	Agenda Item	
Date Received	24th February 2014	Officer	Mr John Evans
Target Date	21st April 2014		
Ward	Queen Ediths		
Site	Parking Area Rear Of 66 - 68 Hartington Grove Cambridge Cambridgeshire		
Proposal	Construction of residential accommodation for the Violin workshop on land at the rear of 66-68 Hartington Grove		
Applicant	Mrs Juliet Barker 70A Hartington Grove Cambridge CB1 7UB		

SUMMARY	<p>The development accords with the Development Plan for the following reasons:</p> <ol style="list-style-type: none"> 1) The reduced eaves and ridge height and footprint address the previous reason for refusal. 2) The proposed dwelling will not detract from the character and appearance of the rear garden scene or accessway. 3) The visual impact and use of the building will not significantly detract from the amenities of adjacent residential properties.
RECOMMENDATION	APPROVAL

1.0 SITE DESCRIPTION/AREA CONTEXT

- 1.1 The application site is a square shaped plot accessed off an unmade accessway on the southern side of Hartington Grove.
- 1.2 To the east of the site is a light industrial premises, formerly 'Comar Instruments'. Permission has been granted for the redevelopment of this site for three dwelling houses. Directly to the south is the Violin workshop which is in the same ownership

as the application site. The north, west and southern boundaries are the rear gardens of residential properties fronting Hartington Grove and Rock Road.

- 1.3 The site is currently used as an informal car park area and has two pre fabricated garages housing material for the Violin workshop.
- 1.4 The site does not fall within a Conservation Area.
- 1.5 The site is outside the controlled parking zone.
- 1.6 There are five tree preservation orders on the site protecting:
 - T19 – Birch tree to the north east of the site by the site entrance.
 - T20 – Birch tree to the east of the site.
 - T21 – Maple tree to the south east of the site.
 - T22 – Maple tree to the south of the site.
 - T23 – Birch tree to the south of the site.

2.0 THE PROPOSAL

- 2.1 This revised application seeks permission for the erection of student accommodation for use in connection with the Violin Workshop. The building is a single storey bungalow containing two levels of accommodation. Four bedrooms will be provided and a dining room/lounge.
- 2.2 The applicant intends to use the premises to offer accommodation to students at the Violin workshop over the summer months. Courses are typically one week in duration. For the remainder of the year, it is intended to let the property through the University of Cambridge or Anglia Ruskin University. The applicant wishes to let the property to a single family or visiting scholar for the remainder of the year. (In preference to a shared house with individual tenants).
- 2.3 The building would have a rectangular shaped footprint, with an eaves level of 2.2m and an overall ridge height of 5.6m. Externally, a patio area would be provided and five car parking spaces which would be shared with the Violin workshop.

2.4 The application is accompanied by the following supporting information:

1. Design and Access Statement
2. Arboricultural Implications Assessment
3. Tree Survey

3.0 SITE HISTORY

70 Hartington Grove

Reference	Description	Outcome
13/0477/OUT	Outline application for demolition of existing building and erection of three dwelling houses (resubmission)	Approved
12/1404/OUT	Outline application for demolition dismissed at of existing building and erection appeal of three dwelling houses.	Refused

66 Hartington Grove

Reference	Description	Outcome
C/84/1030	Erection of bungalow	Approved
13/0059/FUL	Erection of two storey house	Refused

The previous application **13/0059/FUL** was refused for the following reason:

The combination of the proposed building's large footprint and its height produces a bulky and visually dominant building. It is considered that the proposal would dominate the amenity of adjacent properties to the north and west of the proposed building, namely occupants of No.66 Hartington Grove and No.57 Rock Road. It would fail to comply with policies 3/4, 3/7 and 3/12 of the Local Plan (2006).

4.0 PUBLICITY

4.1 Advertisement:	Yes
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 Local Plan 2006	3/4 3/7 3/11 3/12 4/4 4/13 5/1 7/10 8/2 8/6

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
	<u>City Wide Guidance</u> Cambridge City Council (2011) - Open Space and Recreation Strategy

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.

6.0 CONSULTATIONS

Cambridgeshire County Council (Engineering)

- 6.1 I am unclear what the current parking provision is used for and whether a demand will be decanted on-street. If so this demand would appear in competition with existing residential uses in the area and there may be an impact upon residential amenity.
- 6.2 Provided that the residents of the new accommodation proposed are subject to an accepted regime of proctorial control the impact of the accommodation per se should be acceptable in highway terms, however displaced student parking from non-residential courses may impact upon residential amenity as above.

Head of Refuse and Environment

- 6.3 No objections subject to construction hours and noise related conditions.

Streets and Open Spaces (Tree Team)

- 6.4 Awaiting comments. Tree removals previously considered acceptable.
- 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:

59 Rock Road
61 Rock Road

66 Hartington Grove
68 Hartington Grove

7.2 The representations can be summarised as follows:

Comments on the principle of development

- The area currently attracts anti-social behaviour, so development of the site is supported.
- Use of the property as student accommodation is not in character with the area.
- Original approval for the development of the site was for a single storey bungalow.
- The site should be excavated to further reduce the height of the building.
- The dwelling may not be let to a family.

Amenity Issues

- The proposed cycle shed is linked to the southern boundary of 66 Hartington Grove. This creates a loss of light and overshadowing.
- Side elevation of 66 Hartington Grove is incorrect.
- Loss of light to habitable living areas of 66 Hartington Grove.
- A shadow survey should be requested to understand the impact.
- The location and use of the access driveway will have a negative impact on 68 Hartington Grove.
- The use of the house for students is not compatible with the quiet residential character of the area.

Access and Parking Issues

- The access is very narrow for emergency vehicles.
- Loss of car parking spaces.

Tree Comments

- The roots of the Scots Pine to the bottom of 57 Rock Road's garden should be preserved.
- The silver birch in the southern corner is too large and should be removed.

Other matters

- Drainage and foundation issues.
- Maintenance of the driveway.
- Bin collection point.
- Private driveway not owned by the applicant.
- The drawings do not show the borehole for the ground source heat pump.
- Impact of digging and construction on 68 Hartington Grove.

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. Trees
5. Refuse arrangements
6. Highway safety
7. Car and cycle parking
8. Disabled access
9. Third party representations
10. Planning Obligation Strategy

Principle of Development

8.2 Local Plan policy 7/10 states that the development of purpose built student accommodation will only be permitted if; occupancy conditions exist to ensure the accommodation is only available to full time students of the University of Cambridge or Anglia Ruskin University; that appropriate management conditions are in place; they are reasonably close of accessible to the institutions they serve, and they make provision for students who are disabled. The applicant intends to use the bungalow for short stay accommodation for instrument making courses at the violin workshop, over the summer months. Typically these course are one week in

duration. For the remainder of the year, approximately 9 months, the property will be let via the University of Cambridge of Anglia Ruskin University.

- 8.3 In my view, I consider the proposed use of the accommodation for three months a year by the violin workshop acceptable. Subject to the imposition of a suitable planning condition that the premises shall only be used by full time students of the University of Cambridge, Anglia Ruskin University or for short term courses at the violin workshop, I consider the proposal acceptable.
- 8.4 Windfall and student hostel sites for College and University of Cambridge staff will be permitted by policy 7/7, subject primarily to amenity related criteria, which are covered in the relevant subsection below.
- 8.5 The proposed accommodation is reasonably close to the two Universities in Cambridge and the parking and amenity impacts of the use can be mitigated through the imposition of a suitable condition requiring a management plan. This is discussed in the amenity section below.
- 8.6 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 development of the plot in this manner will not have a significant harmful impact on the open character of the garden scene. The principle of subdivision is therefore acceptable and in accordance with Cambridge Local Plan 2006 policies 3/10 and 5/1.

Context of site, design and external spaces

- 8.7 The key design issue is the design and appearance of the new building in its setting. The previous reason for refusal related to amenity issues only. The revised building would be less prominent in the rear garden scene and is acceptable in its context.
- 8.8 The proposed building can be comfortably accommodated within the application site. The siting of the building is positioned 2m from the west boundary and 4m from the

southern boundary which will ensure the single storey building will not be overly cramped or constrained in its plot.

- 8.9 The previous application was refused primarily because of the likely harmful visual impact created by a two storey building. It was the 'combination of the proposed building's large footprint and its height producing a bulky and visually dominant building'.
- 8.10 This revised scheme has a reduced impact because of the single storey design, which would be appropriate in this backland setting, adjacent to private rear gardens.
- 8.11 The reduced footprint of the application proposal, and more importantly the reduction in eaves height to 2.5m, will ensure the dwelling will not significantly erode the open character of the gardenscape and will be subservient in scale to the main two storey dwellings along Hartington Grove and Rock Road.
- 8.12 Facing brickwork is acceptable in this context. A slate roof may be preferable to the proposed concrete roof tile, although materials can be agreed through the imposition of a suitable planning condition.
- 8.13 In my opinion the proposal would respond positively to site context and constraints and would not be harmful to the character and appearance of the area and is compliant with Cambridge Local Plan (2006) policies 3/4, 3/7, 3/11 and 3/12.

Residential Amenity

Impact on amenity of neighbouring occupiers

- 8.14 The proposed building will be most visible from the rear of 57 Rock Road and 66 Hartington Grove, which formed the previous reason for refusal of 13/0059/FUL. Given the significant reduction in height at eaves level from 3.8m previously proposed, to 2.5m, I now consider the relationship of the proposed dwelling with these properties acceptable. The single storey bicycle shelter which would abut the northern boundary with 66 Hartington Grove is 2.3m in height, which is only 0.5m above a standard fence panel and would not therefore be overly intrusive.

- 8.15 The main ridge height rises to 5.6m which is a reduction of approximately 1m as compared with the previous application. Importantly, the roof plane now slopes more steeply away from the rear garden of 66 Hartington Grove so I do not consider this revised proposal to create a significantly harmful visual impact or sense of enclosure.
- 8.16 The position of the proposed house may create some overshadowing to the end section of the rear gardens of 64, 66 and 68 Hartington Grove through the day. In my view give the modest overall height of the proposed dwelling, the angle of its roof slope and the siting 2m off the northern boundary of the main roof, I do not consider the likely impact so harmful as to justify refusal. There is also substantial vegetation on the northern boundary which will further screen the application site from residential properties to the north.
- 8.17 The development will result in some impact from general comings and goings to the property. Given the overall reduction in the number of car parking spaces, the impact from a single dwelling, albeit in shared occupation, is unlikely to create significant disturbance for neighbouring residential properties. The imposition of suitable planning conditions can ensure that car ownership is appropriately controlled and that a management plan for the premises is agreed for the use of the property.
- 8.18 The applicant intends to resurface the unmade access to reduce the noise impact of vehicles entering and leaving the site. In my view this will appropriately mitigate potential disturbance.
- 8.19 In my opinion the proposal overcomes the reason for refusal of the previous scheme and 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 and 3/12.

Amenity for future occupiers of the site

- 8.20 The proposed dwelling would have a useable garden area and would provide a high-quality living environment and an appropriate standard of residential amenity for future occupiers.

I consider that in this respect it is compliant with Cambridge Local Plan (2006) policies 3/7 and 3/12.

Trees

- 8.21 Policy 4/4 of the Local Plan explains that development will not be permitted which would involve the felling, significant surgery or potential root damage to trees of amenity or other value unless there are demonstrable public benefits accruing from the proposal which outweigh the current and future amenity value of the trees. When felling is permitted, appropriate replacement planting will be sought wherever possible.
- 8.22 The site contains five Tree Preservation Order (TPO) trees. Three TPO trees would remain and two removed. The Council's Arboriculturalist previously considered the loss of these trees to be acceptable providing the inclusion of a specific condition. I therefore consider the loss of these trees to be acceptable. I consider the proposal is compliant with policy 4/4 of the Local Plan (2006).

Refuse Arrangements

- 8.23 Refuse storage is adequately integrated into the scheme. In my opinion the proposal is compliant with Cambridge Local Plan (2006) policy 3/12.

Car and Cycle Parking

Car Parking

- 8.24 The development will result in the loss of three car parking spaces leaving five spaces for the accommodation and the violin workshop. Given the use of the building for student accommodation and short courses at the violin workshop, the imposition of suitable conditions can ensure car ownership is strictly controlled.
- 8.25 The five proposed car parking spaces exceeds the Council's maximum car parking standards for student accommodation, which suggests one space to be appropriate. However, given the reduction of car parking from the existing use of the site, I consider the retained provision acceptable. The position of

protected trees would prevent siting the building closer to the accessway.

Cycle Parking

8.26 A secure covered attached outbuilding will provide five cycle parking standards which exceeds the Council's minimum standards. In my opinion the proposal is compliant with Cambridge Local Plan (2006) policies 8/6 and 8/10.

Disabled access

8.27 The proposal would be compliant with Part M of the Building Regulations. The ground floor external door will have ramped access. In my opinion the proposal is compliant with Cambridge Local Plan (2006) policies 3/7 and 3/12.

Third Party Representations

8.28 The issues raised have been discussed in the above report and are summarised in the table below:

Issue	Report section/officer comment
Noise and disruption during construction	A construction management plan condition has been imposed to ensure noise, disturbance and construction disruption is kept to a minimum.
The silver birch in the southern corner is too large and should be removed.	The applicant intends to retain this tree.
The dwelling may not be let to a family.	The development is for student accommodation and not a dwelling and will be restricted to students of Cambridge University, ARU or the violin workshop, who have their own management protocol to ensure the impact of the use does not adversely affect the amenities of the area.
The site should be excavated to further reduce the height of the building.	Paragraph 8.10.

Side elevation of 66 Hartington Grove is incorrect.	While the later extension to 66 Hartington Grove has not been included on the block plan. This notwithstanding I consider the proposed relationship of the new dwelling and adjacent residential properties acceptable.
Maintenance of the driveway.	The violin workshop consider the driveway to be in their ownership and it will be resurfaced.
The drawings do not show the borehole for the ground source heat pump.	This does not require planning permission and is not specified within the application.
Bin collection point.	Bins will need to be moved into Hartington Grove for collection.
The roots of the Scots Pine to the bottom of 57 Rock Road's garden should be preserved.	This tree will be protected during the works.

Planning Obligation Strategy

8.29 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.

The proposed development triggers the requirement for the following community infrastructure:

Open Space

8.30 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.

The totals required for the new buildings are calculated as follows:

Outdoor sports facilities					
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
Total					952

Indoor sports facilities					
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
Total					1076

Informal open space					
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
Total					968

8.31 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)

Waste

8.32 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:

Waste and recycling containers			
Type of unit	£per unit	Number of such units	Total £
House	75	1	75
Flat	150		
Total			

8.33 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

8.34 The Planning Obligation Strategy (2010) requires that all new residential developments contribute to the costs of monitoring the implementation of planning obligations. It was agreed at Development Plans Scrutiny Sub- Committee on 25 March 2014 that from 1 April 2014 monitoring fees for all financial and non-financial planning obligations will be 5% of the total value of those financial contributions (up to a maximum of £50,000) with

the exception of large scale developments when monitoring costs will be agreed by negotiation. For this application a monitoring fee of £153.55 is required.

Planning Obligations Conclusion

8.35 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 This revised application addresses the previous reason for refusal. The proposed dwelling will not be harmful to the character and appearance of the area or the amenities of adjacent residential properties. APPROVAL is recommended.

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. 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)

3. Details of the specification and position of fencing, or any other measures to be taken for the protection of any trees from damage during the course of development, shall be submitted to the local planning authority for its written approval, and implemented in accordance with that approval before any equipment, machinery or materials are brought onto the site for the purpose of development (including demolition). 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)

4. 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)

5. Except with the prior agreement of the local planning authority in writing, 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)

6.
 - a. Prior to the commencement of development works a noise report prepared in accordance with the provisions of British Standard (BS) 4142:1997, 'Method for rating industrial noise affecting mixed residential and industrial areas,' that considers the impact of industrial noise upon the proposed development shall be submitted in writing for consideration by the local planning authority.
 - b. Following the submission of a BS 4142:1997 noise report and prior to the commencement of refurbishment/ development works, a noise insulation scheme detailing the acoustic noise insulation performance specification of the external building envelope of the residential units (having regard to the building fabric, glazing and ventilation) for protecting the residential units from noise from the neighbouring industrial use shall be submitted to and approved in writing by the local planning authority. The scheme shall achieve the internal noise levels recommended in British Standard 8233:1999 'Sound Insulation and noise reduction for buildings-Code of Practice'. These levels shall be achieved with ventilation meeting both the background and summer cooling requirements.

The scheme as approved shall be fully implemented before the use hereby permitted is commenced and prior to occupation of the residential units and shall not be altered without prior approval.

Reason: In the interests of the amenities of future occupiers, Cambridge Local Plan 2006 policy 4/13.

7. 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: In the interests of the amenities of future occupiers, Cambridge Local Plan 2006 policy 4/13.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or with any order revoking and re-enacting that Order with or without modifications) no windows or dormer windows shall be constructed other than with the prior formal permission of the local planning authority.

Reason: To protect the amenity of adjoining properties. (Cambridge Local Plan 2006 policies 3/4 and 3/14)

9. 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)

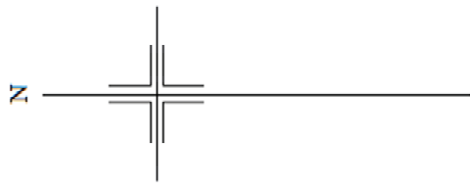
10. The development hereby permitted shall be used as a residential institution for students attending full-time courses of education at the University of Cambridge or Anglia Ruskin University and who are subject to proctorial control; or for students attending courses at the adjacent violin workshop who are subject to their own car parking management arrangements.

Reason: The use of the car parking area has the potential to cause disturbance C2 (Residential institutions) use, the occupants of which are subject to a system of parking control administered by the University of Cambridge. (Cambridge Local Plan 2006 policy 8/10)

11. Prior to the commencement of the development a management plan for the use of the premises by the Violin workshop for residential courses shall be submitted to and approved by the Local Planning Authority. The management plan shall include details of car parking arrangements and measures to ensure the amenities of neighbouring residential properties are not adversely affected. The premises shall be operated in accordance with the management plan.

Reason: To ensure that the impact of the use premises for student accommodation provided by the violin workshop is managed to minimise the impact on surrounding residential properties. Cambridge Local Plan 2006 policy 3/4.

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 Gerrard Council MA, Dip Arch RIBA Chartered Architect, 20, Bullock Way, Cambridge, CB1 7UX Tel: (0)1223 244330 Fax: (0)1223 412647	Location plan	
	Scale: 1:500 @A3	Dwg. No. 1225 / 65
Proposed residential building at 70A, Hartington Grove, Cambridge, CB1 7UB, for the Violin Workshop	Date: February 2014	

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Application Number	14/0754/FUL	Agenda Item	
Date Received	15th May 2014	Officer	Mr Amit Patel
Target Date	10th July 2014		
Ward	Cherry Hinton		
Site	12A Drayton Close Cambridge Cambridgeshire CB1 9EY		
Proposal	Alterations to provide dependant relative's annex single storey side and rear extensions (retrospective).		
Applicant	Mrs S Jenson And Mr J Paul 12A Drayton Close Cambridge Cambridgeshire CB1 9EY		

SUMMARY	<p>The development accords with the Development Plan for the following reasons:</p> <p style="padding-left: 40px;">The proposal is not out of keeping with the character of the area.</p> <p style="padding-left: 40px;">The proposed changes do not have an adverse impact on the neighbours.</p> <p style="padding-left: 40px;">The proposal is for an annex and does not have a significant impact on the highway.</p>
RECOMMENDATION	APPROVAL

1.0 SITE DESCRIPTION/AREA CONTEXT

- 1.1 12a Drayton Close is the northern half of a pair of semi-detached houses located at the end of the cul-de-sac/turning area at Drayton Close. The property has recently been re-numbered from No.13 to 12a and is referred to as such throughout this report. Numbers 12, 12a and 14 were all built at the same time and are of a similar design. 12a has been extended to the north-east with a two storey extension.
- 1.2 The surrounding area is characterised by semi-detached two storey houses. Some of the houses benefit from extensions,

which are mainly single storey but there are two storey extensions and some of the ground floor additions are of a substantial size.

- 1.3 The site does not fall within a Conservation Area and there are no Listed Buildings, Buildings of Local Interest or protected trees in the vicinity. The site falls outside the controlled parking zone.

2.0 THE PROPOSAL

- 2.1 This application seeks retrospective approval for single-storey extensions to the existing kitchen and living area. The larger wing has already gained permission under planning reference 11/0873/FUL but this element has not been built in accordance with the approved plans and therefore permission is also sought for this.

- 2.2 This application is to regularise the works that have been carried out on site. The main changes to this application compared to the approved scheme are:

- The addition of the rear extension to the existing living room which measures 3.5m by 4.5m by 2.6m to the eaves and 4.2m to the highest part of the roof with a lean-to roof.
- The addition of a rear extension to the existing dining room which measures 3.5m by 5m which tapers down to 4.7m by 2.6m to the eaves and 4.2m to the highest part with a lean-to roof.
- The side extension which already gained approval for a 12.6m deep extension but this has been extended by 1m to 13.6m.
- The ground floor window in the north elevation has moved to accommodate the extension to the existing kitchen.

- 2.3 There is a discrepancy in the depth of the previously approved side extension. The layout plan on drawing number shows this to be 13.6m deep, however, on the same plan the north elevation shows the depth of this element to be 12.6m. The agent has confirmed that this is a discrepancy and a revised north elevation drawing will be formally sent to update the drawings. In light of this, I have assessed the proposal as being 13.6m deep.

2.4 Cllr Dryden has requested the application is heard at Area Committee on the grounds of over-development.

3.0 SITE HISTORY

Reference	Description	Outcome
11/0873/FUL	Alterations to provide dependant relative's annex single storey side and rear extension.	A/C

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 3/14 8/2 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
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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 1, 55, 56, 58, 80 and 82.

6.0 CONSULTATIONS

Cambridgeshire County Council (Highways Development Management)

- 6.1 There will be no adverse impact upon highway safety but could cause residential amenity problems with car parking on street.

Head of Refuse and Environment

- 6.2 No comments to make on this application.
- 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:

- 28 Bridewell Road

7.2 The representations can be summarised as follows:

- Changed from a four bed to a seven bed house
- The building comes close to the boundary with 28 Birdwell Road
- Overlooking
- Refusal of an application in Trumpington

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. Context of site, design and external spaces
2. Residential amenity
3. Highway safety
4. Car parking
5. Third party representations

Context of site, design and external spaces

8.2 The houses in Drayton Close are of the same design with generally red brick walls under a pitched and hipped roof. The terrace of 9-12 Drayton Close, which is finished in white render, is an anomaly that gives the end of the cul-de-sac a distinctive character. Most of the houses in the Close have some form of extension and therefore additions are not out of character. 12a Drayton Close benefits from a two storey extension, however the location of the rear extensions does not allow any views from the street.

8.3 The two extensions are not highly visible in the street but are visible above the boundaries of nos. 12 and 14 Drayton Close and from first floor windows from Bridewell Road. 12a Drayton Close is unusual in that it occupies a corner plot and has a larger garden than some neighbouring houses. Although the extensions occupy a large footprint it is my view they are acceptable because a sufficiently large garden is retained to

preclude overdevelopment of the plot and it has limited impact on the visual amenities of the area.

- 8.4 The side element mirrors the roof design on the existing house and the lean-to roofs to the rear have a similar angle to the existing roof which is compatible with the design of 12a Drayton Close and they are constructed in bricks and tiles which match existing.
- 8.5 In my opinion the proposal is compliant with Cambridge Local Plan (2006) policies 3/4, 3/7 and 3/14.

Residential Amenity

Impact on amenity of neighbouring occupiers

- 8.6 Comments received raise concerns regarding the side extension coming closer to the rear boundary with Bridewell Road causing privacy concerns. In terms of the physical presence of the extensions, the neighbours most affected by the development are the occupiers of 12 and 14 Drayton Close. Although the approved single-storey side extension extends 1m further towards number 12, I consider that the single storey nature of the extension mitigates its impact to a significant degree as do the 1.8 metre high boundary fences to the boundaries with the neighbours. With respect to the properties on Bridewell Road this amended proposal does not come closer to their boundary and the impact on these properties. I do not consider that there is any significant difference on impact to these properties from the previous approved scheme.
- 8.7 The single-storey extension to the dining room is hard up on the boundary with the neighbour at no.14. The proposal is marginally more than what could be constructed under permitted development. Taking into account that no14 is situated south of the application site and is 0.5m deeper by 0.2m higher than what could be constructed under permitted development, I do not consider that there is a significant impact in terms of loss of light or outlook.
- 8.8 There are no new windows proposed but two doors in the rear elevation serving the extensions to the dining room and kitchen. These are at ground floor level and considering that there is a

1.8m boundary treatment. I do not consider there is a significant loss of privacy to the neighbours.

- 8.9 Comments have been received regarding this being a seven bedroom property. The proposed development does not lead to the creation of a new dwelling or separate planning unit. In these circumstances a refusal on the grounds of additional noise and disturbance could not be justified.
- 8.10 The proposal creates an annex for dependent relatives. Although there are no fundamental issues relating to this, I note that this could easily be converted into a separate unit. This would, in my opinion, need further assessment as the impacts are significantly different. I recommend a condition to control this. (Condition 1).
- 8.11 Subject to condition, 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 and 3/14.

Highway Safety

- 8.12 The Highway Authority has raised no objection. I do not consider that it would be reasonable to recommend refusal on the grounds of highway safety.
- 8.13 In my opinion the proposal is compliant with Cambridge Local Plan (2006) policy 8/2.

Car Parking

- 8.14 The annex is for dependent relatives and there is potential that they will have their own vehicle. The proposal will have car parking space to the front of the dwelling. The car parking standards require a 3 or more bedroom house to have no more than 2 car parking spaces. The proposal has space off road for 2 spaces and is therefore acceptable. This site is outside the controlled parking zone and therefore car parking on street would not be out of the question. Illegal car parking is a matter for other authorities and it would not be reasonable to refuse the application on these grounds.

8.15 In my opinion the proposal is compliant with Cambridge Local Plan (2006) policy 8/10.

Third Party Representations

8.16 The third party concerns have been addressed in the main body of the report above.

8.17 The issue concerning a proposal being refused in Trumpington has not been addressed as each site is individually assessed and the context may be different.

9.0 CONCLUSION

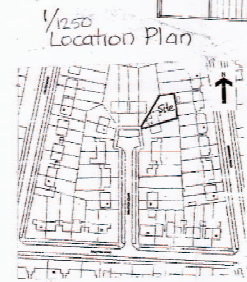
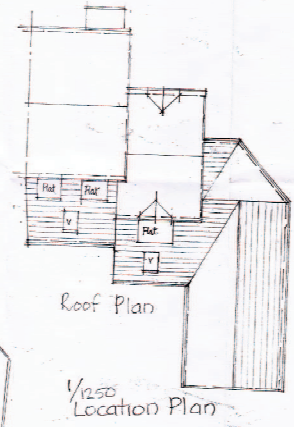
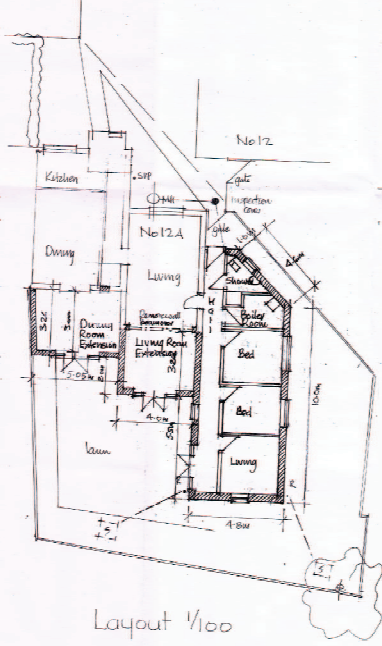
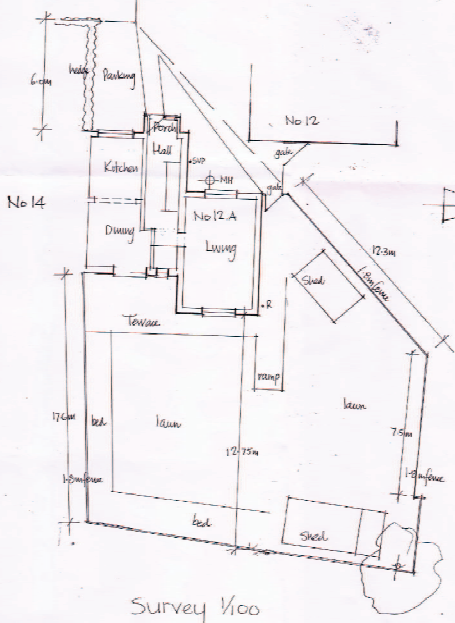
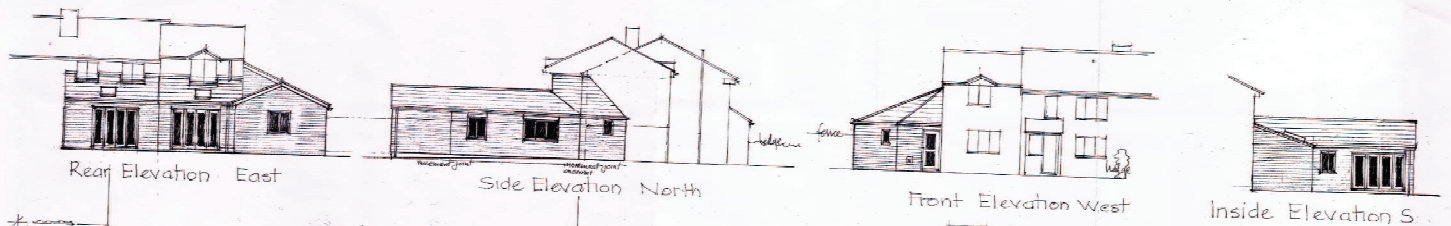
9.1 In my opinion the proposed development at 12a Drayton Close is sensitive to its context and is appropriate in scale to the surrounding area. The development does not have any adverse impact upon either the surrounding area or the amenities of neighbouring residents. The application is therefore acceptable and is recommended for approval.

10.0 RECOMMENDATION

APPROVE subject to the following conditions:

1. The development hereby permitted shall be used solely in conjunction with and ancillary to 12A Drayton Close, Cambridge, CB1 9EY and shall not be separately used, occupied or let.

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)



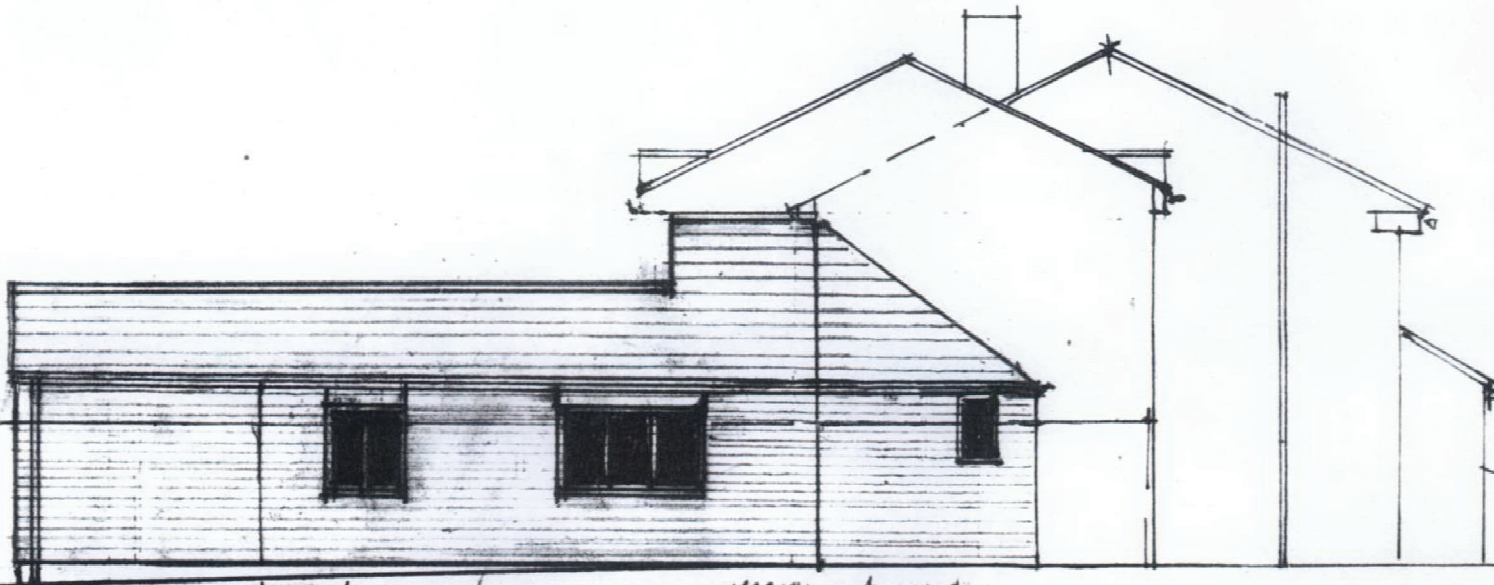
c May 2014 Plan updated as Built: HR
 B Jan 2016 Inside elevation revised: HR
 A. Aug 2011 Living Room increased in size: HR

Annex to 12 A Drayton
 Close Cherryhinton
 Cambridge

BC.107.1 c
 1/100 - 1/250 May 2011
 Jenkinson - Paul

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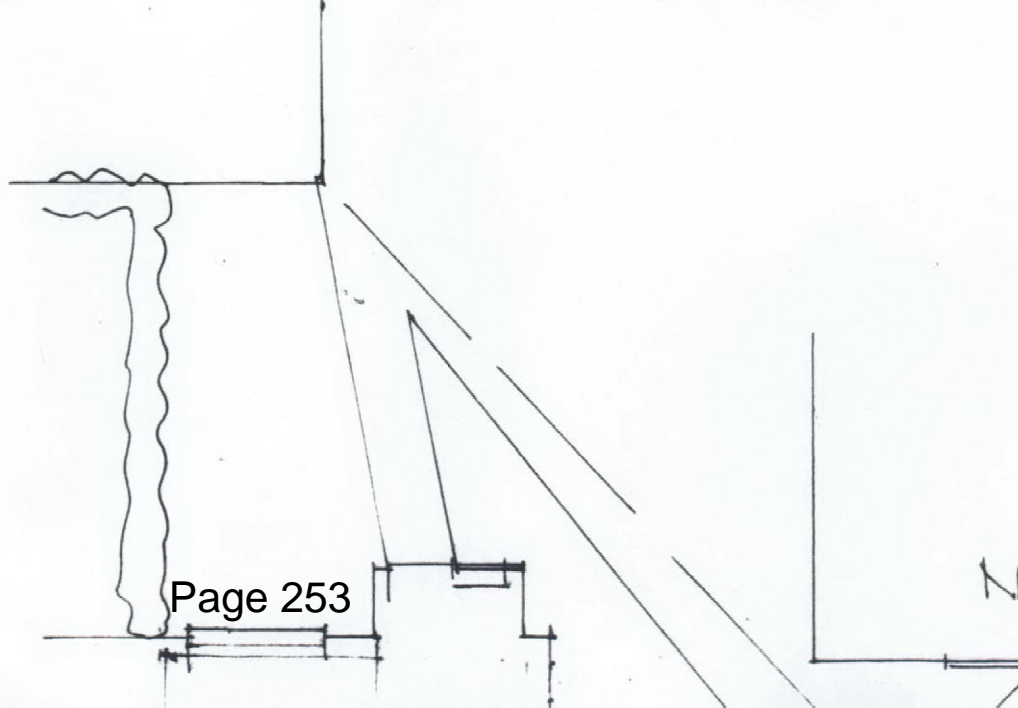
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movement joint

movement joint on corner

Side Elevation North



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Application Number	14/0287/FUL	Agenda Item	
Date Received	10th March 2014	Officer	Natalie Westgate
Target Date	5th May 2014		
Ward	Cherry Hinton		
Site	29 Fernlea Close Cambridge CB1 9LW		
Proposal	Single storey front extension, part single storey, part two storey rear extension and two storey side extension.		
Applicant	Mr ALI MASHUK 29 Fernlea Close Cambridge CB1 9LW		

SUMMARY	<p>The development accords with the Development Plan for the following reasons:</p> <ol style="list-style-type: none"> 1) The design of the extension will not detract from the character and appearance of the building or wider setting. 2) There would be no significant adverse impact on the amenities of neighbouring residential properties. 3) The scheme is very similar to that approved in 2013.
RECOMMENDATION	APPROVAL

1.0 SITE DESCRIPTION/AREA CONTEXT

- 1.1 29 Fernlea Close is a two storey semi-detached dwelling. It stands on the south-western side of Fernlea Close. The area is entirely residential in character.

- 1.2 The site is not within a conservation area. There are no protected trees on the application site. The site falls outside the controlled parking zone.

2.0 THE PROPOSAL

- 2.1 The application seeks planning permission for a part single storey part two storey front, side and rear extension.
- 2.2 This is a revised application from a very similar scheme approved in 2013.
- 2.3 The proposed two storey extension projects 4.5m to the rear. The single storey extension projects 3.8m.
- 2.4 The application is brought before Committee at the request of Councillor Dryden for the following reason:
- The application is an overdevelopment of the site.

Amended Plans

- 2.5 The application was originally submitted with very poor quality plans. The applicant has now submitted accurate drawings.
- 2.6 All residential properties have been reconsulted on the amended plans.

3.0 SITE HISTORY

Reference	Description	Outcome
11/1018/CLUPD	Side and rear dormer and front velux window	Certificate granted
11/1019/FUL	Part single storey part two storey rear extension.	Approved
13/0027/FUL	Part single storey part two storey rear extension.	Approved

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 Local Plan 2006	3/4 3/14

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
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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.

5.5 Supplementary Planning Documents

Cambridge City Council (May 2007) – Sustainable Design and Construction:

6.0 CONSULTATIONS

Cambridgeshire County Council (Engineering)

- 6.1 The application form states that there is no change in parking provision within the site, but provides no other details of existing or proposed provision.
- 6.2 The application removes part of the front hardstanding for cars.
- 6.3 The applicant must provide information regarding existing and proposed parking arrangements to allow informed comment upon the full impact of the proposals. The applicant must show the dimensions for the proposed car parking spaces, which should be 2.5m x 5m with a 6m reversing space.
- 6.4 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

27 Fernlea Close

The representation can be summarised as follows:

- The quality of the plans is very poor.
- The adjacent shed has not been drawn accurately.
- The extension would block light.

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. Context of site, design and external spaces
 2. Residential amenity
 3. Third Party Representations

Context of site, design and external spaces

- 8.2 The key design issue is the design and appearance of the extensions in relation to the existing building and their wider setting. A very similar extension was approved in 2013, which is a material consideration which carries significant weight.
- 8.3 The extension is proportionate to the plan form of the original house and in my view there has been no change in policy or circumstances, which might justify taking a different view from the approved scheme 13/0027/FUL in 2013.
- 8.4 The front porch is of an adequate design and scale for the character of the area so the proposed front extension would be in keeping with the character of the street scene. The proposed side and rear extension are appropriately designed and the form of the roof pitches are in keeping with the existing dwelling.
- 8.5 Brickwork is to match the existing building which can be ensured through the imposition of a suitable planning condition.
- 8.6 Adequate external space is retained for car parking off the street.
- 8.7 In my view, the proposal is harmonious in its context and the development accords with the Cambridge Local Plan (2006) policies 3/4 and 3/14.

Residential Amenity

Impact on amenity of neighbouring occupiers

- 8.8 The proposed rear extension at first floor level would have a similar visual impact to the approved scheme in 2013. In my view the depth of the projection at 4.5m would not cause significant overshadowing for 25, 27 or 31 Fernlea Close.
- 8.9 The impact on the attached neighbouring property at No.31 is acceptable because the proposed development towards this side is still single storey and there is adequate boundary treatment.
- 8.10 The impact on the neighbouring property at No.27 is acceptable because there is a separation distance between the dwelling

and the extension of approximately 3.5m, so there would not in my view be a harmful visual impact or sense of enclosure. 25 and 27 Fernlea Close are sited deeper into their garden plots as compared to 29 Fernlea Close, which reduces the impact of the extensions or the potential for a significant loss of light to its flank windows. There will be some shadow created to the side of 25 and 27 Fernlea Close in the afternoon, but I do not consider this to be significantly harmful.

- 8.11 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 the Cambridge Local Plan (2006) policies 3/4 and 3/14.

Third Party Representations

The issues raised have been considered in the above report and are summarised below:

Issue	Report section/Officer comment
The quality of the plans is very poor	Accurate plans have been obtained and all neighbours were reconsulted on the proposed application.
The adjacent shed has not been drawn accurately.	The block plan does not identify garden outbuildings, but this does not in my view affect the assessment of the impact of the proposed extensions.
The extension impacts on light to 27 Fernlea Close	Paragraph 8.9

9.0 CONCLUSION

- 9.1 This amended scheme is very similar to the previous approval in 2013 and will not be harmful to the character and appearance of the existing property, or the amenities of neighbours. APPROVAL is recommended.

10.0 RECOMMENDATION

APPROVE subject to the following conditions:

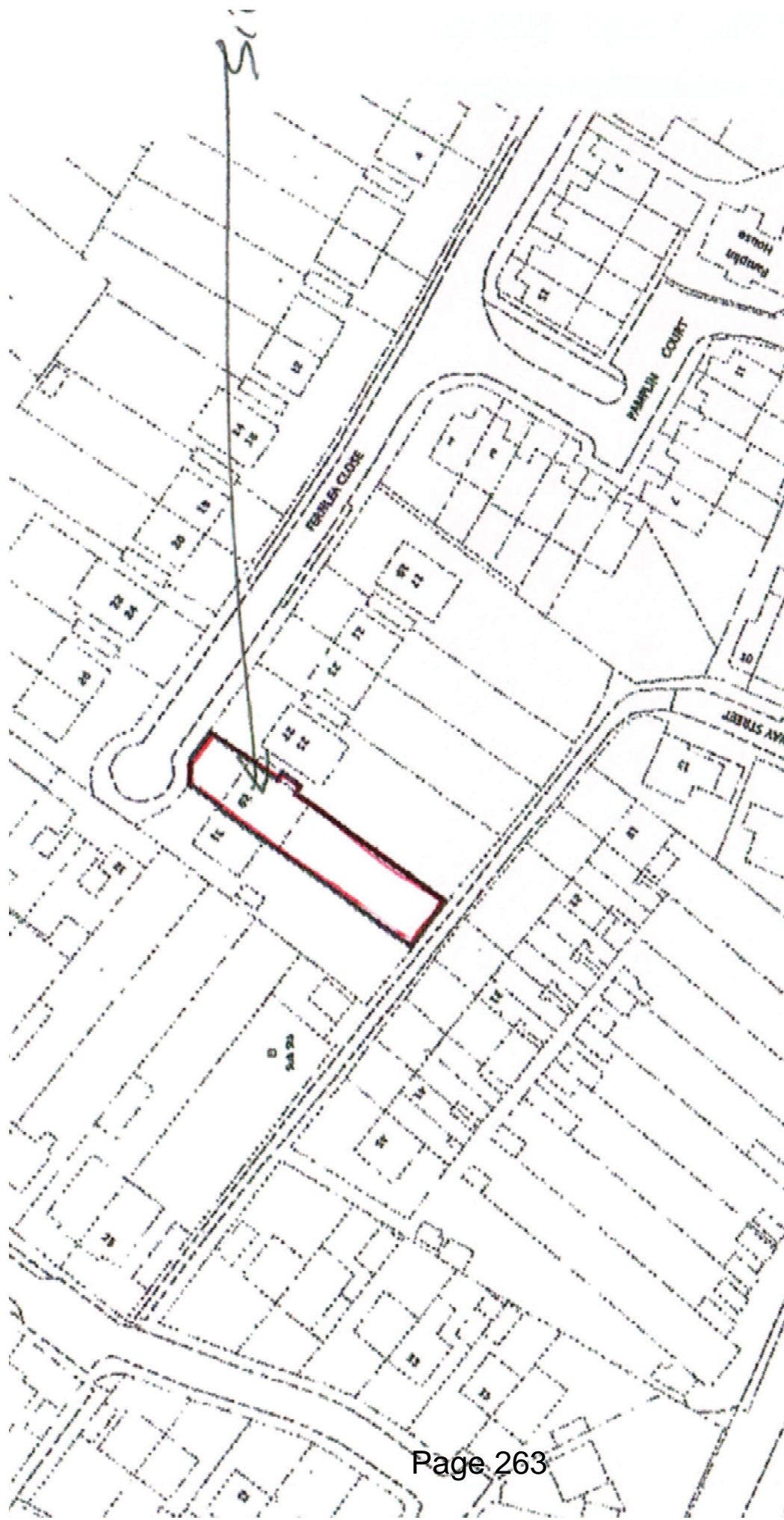
1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

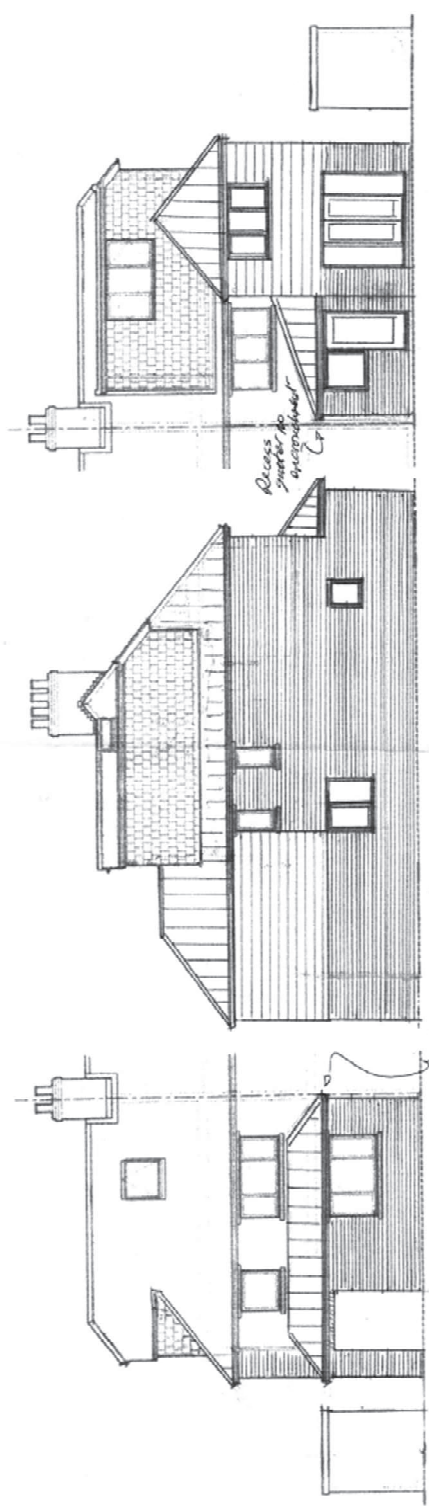
2. The extension hereby permitted shall be constructed in external materials to match the existing building in type, colour and texture.

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)

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METRIC
DO NOT SCALE



REAR

REAR ELEVATION

FRONT

PROPOSED ELEVATIONS

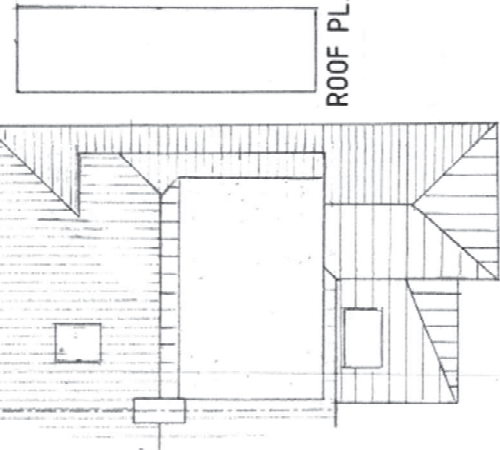
(F)

SIDE (E)

FRONT ELEVATION

SIDE

(W)



ROOF PLAN 1:100

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SCALE: 1:100	

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CAMBRIDGE CITY COUNCIL

REPORT OF: Head of Planning
TO: South Area Committee
WARD: Queen Ediths

New residential development comprising six 2-bed flats, one 3-bed flat, car parking, cycle store, refuse store, landscaping and modified vehicular access to Mowbray Road following demolition of existing house and garage, 33 Queen Ediths Way.

1. INTRODUCTION

- 1.1 On 3 March 2014, South Area Committee considered planning application (14/0020/FUL) for the demolition of the existing detached dwelling at 33 Queen Ediths Way and redevelopment of the site for three storey residential building comprising seven flats.
- 1.2 The Committee resolved to approve the planning officer's recommendation to grant planning permission for the application subject to conditions and the completion of a s106 agreement.
- 1.3 Since the Committee meeting, officers have begun drafting the s106 agreement and it has come to their attention that the County requirement for Life Long Learning was not included in the Committee report. For this reason the application is brought back to Committee for members to agree this additional contribution.

2. RECOMMENDATIONS

- 2.1 To approve the amendment to the contributions required for the s106 agreement so that it includes the financial contribution detailed in paragraph 3.4 of this report.

3. BACKGROUND

- 3.1 As a result of consultation with the County Council, officers were aware of the need for contributions to be made towards Life Long Learning. However this requirement was not set out in the officer's report. This was an error and officers have apologised to the applicant for this.
- 3.2 I have set out below the detailed justification for the contribution, which should have been set out in the original report. The contribution is considered to be a necessary financial obligation that meets the tests set out in the Community Infrastructure Levy Regulations 2010, which place a statutory requirement on the Local Planning Authority to ensure that where planning permission is dependent upon a planning obligation under s106 being completed, the obligations sought pass the following tests:

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

3.3 The contribution sought by the County Council complies with the above tests.

3.4 The County Council have informed officers that they require a contribution of £1,140 to be made towards Life Long Learning.

4. CONSULTATIONS

4.1 No further consultations were required.

5. OPTIONS

5.1 To resolve to include the requirement for contributions towards Life Long Learning in the s106 agreement.

5.2 To resolve not to include the requirement for contributions towards Life Long Learning in the s106 agreement on the basis that it is not justified (This would be inconsistent with similar developments elsewhere in the City).

6. CONCLUSIONS

6.1 A requirement for contributions towards Life Long Learning is justified and the s106 agreement should be drafted to include such contributions.

7. IMPLICATIONS

(a) **Financial Implications** – None

(b) **Staffing Implications** – None

(c) **Equal Opportunities Implications** – None

(d) **Environmental Implications** – None

Climate Change Impact: Nil

(e) **Procurement** – None

(f) **Consultation and Communication** - None

(g) **Community Safety** – None

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

Planning application 14/0020/FUL

To inspect these documents contact Sav Patel on extension 7167

The author and contact officer for queries on the report is Sav Patel on extension 7167.

Report file:

Date originated: 12 June 2014

Date of last revision: 12 June 2014

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