

Application Number	11/0050/FUL	Agenda Item	
Date Received	18th January 2011	Officer	Mr James D'Arcy
Target Date	15th March 2011		
Ward	Kings Hedges		
Site	412 Milton Road Cambridge Cambridgeshire CB4 1SU		
Proposal Applicant	Erection of a one 3-bed dwelling at rear of site. D & M Properties 436 Milton Road Milton Road Cambridge CB4 1ST		

1.0 SITE DESCRIPTION/AREA CONTEXT

- 1.1 Milton Road is the major highway linking Cambridge city centre with the north of the City and with the towns and villages beyond. The application site lies just south east of the crossroads junction of Milton Road with Green End Road and Kings Hedges Road. 412 Milton Road stands just south-west of that junction. A single-storey, flat-roofed Co-operative supermarket building stands between the site and the crossroads. Diagonally opposite the Co-op to the north, across the junction, is the Golden Hind public house, and adjacent to that the Pianoforte music shop. These aside, the area is predominantly residential, though just inside and outside the city boundary, 500 metres to the north, is a lot of commercial development.
- 1.2 412 Milton Road, a two-storey, previously extended, residential property. The application site is part of the original curtilage of that dwelling. It has for some time had the appearance of a rather uncared for area of garden land with some historic planting of no great merit. The north-east boundary of 412 and the site is marked by the substantial south-west flank wall of the Co-op building, which is a little over 4m in height for most of its considerable length, though it does step down a little at the south-eastern end of the site boundary.

- 1.3 The property is flanked to the south-west by 410, a bungalow and its extensive garden and to the south east, beyond a narrow strip access by the flank wall of the residential property at number 1 Green End Road.
- 1.4 There are no protected trees upon the site, nor will the development impact upon any listed buildings. The site is not within a Conservation Area.

2.0 THE PROPOSAL

- 2.1 The application seeks permission to create one, 3-bedroom 'Chalet-style' dwelling in the rear garden area of number 412 Milton Road. It will have a T-shaped footprint of approximately 64 sqm, with a single storey cycle and bin store at the front, close to the access point off Green End Road, and a small two-storey projection at the rear, towards 412. Two bedrooms are proposed at first floor level and one at ground floor level.
- 2.2 The building has a single window at ground floor level on the north-east wall facing the Co-op, but all other glazing faces either the rear of 412 Milton Road, or looks out towards the side of 1 Green End Road. The house has a rear garden only about 6 metres deep (plan 2, though plan 3 suggests it is about 8.7m)
- 2.3 It is proposed that the new dwelling will be separated from the existing garden of number 412 Milton Road by a 2.5m high fence. The external aspects of the building proposed will consist of brick walls with wooden framed doors and windows, and concrete pantiles to the roof. The building will have a proposed footprint
- 2.4 The application is a resubmission of application reference 10/0155/FUL, which was refused under delegated powers by the Local Planning Authority. This decision was subsequently appealed to the Planning Inspectorate (ref: APP/Q0505/A/10/2129719/WF). The Planning Inspector dismissed the appeal, but stated that in relation to the Unilateral Undertaking which was not completed in relation to the previous application:

"If this had been done I would be in a position to allow the appeal subject to conditions."

2.5 As such the proposal remains identical to the prior submission, which was considered to be acceptable by the Planning Inspectorate. A copy of this Appeal Decision in its entirety can be found at the end of this report. His letter is dated the 29th of November 2010. The Inspectors decision is a very significant material consideration.

2.6 The application is accompanied by the following supporting information:

1. Design Statement
2. Plans & Elevations
3. Application Forms

3.0 SITE HISTORY

Reference	Description	Outcome
04/1238/FUL	Erection of 4 No. one bedroom flats (2 storey in height), following demolition of existing house.	W/D
05/0649/FUL	Erection of 1no. chalet bungalow	REF
06/0126/FUL	Alterations to supermarket premises and construction of three residential apartments at first floor level.	W/D
06/0847/FUL	Change of use to HMO (House in Multiple Occupation) and erection of a two storey rear extension.	W/D
07/0610/FUL	Erection of 4no. 1bed flats (following demolition of existing house).	A/C
09/0295/FUL	Alterations and two storey rear extension.	A/C
10/0155/FUL	Erection of one 3-bed dwelling at rear of site.	REF

3.1 In 2006 permission was granted, under the reference 06/0486/FUL, for 3 flats on the roof of the Co-op building. This was the renewal of permission pursuant to an earlier application, refused by the City Council but allowed at appeal. While acknowledging the expiry of this permission, it is still to be

borne in mind as a resubmission will have a bearing upon this site and the rear of number 412 Milton Road.

4.0 PUBLICITY

4.1 Advertisement:	No
Adjoining Owners:	Yes
Site Notice Displayed:	No
Public Meeting/Exhibition (meeting of):	No
DC Forum (meeting of):	No

5.0 POLICY

5.1 Central Government Advice

5.2 **Planning Policy Statement 1: Delivering Sustainable Development (2005):** Paragraphs 7 and 8 state that national policies and regional and local development plans (regional spatial strategies and local development frameworks) provide the framework for planning for sustainable development and for development to be managed effectively. This plan-led system, and the certainty and predictability it aims to provide, is central to planning and plays the key role in integrating sustainable development objectives. Where the development plan contains relevant policies, applications for planning permission should be determined in line with the plan, unless material considerations indicate otherwise.

5.3 **Planning Policy Statement 3: Housing (2006):** Planning Policy Statement 3 (PPS3): Housing has been reissued with the following changes: the definition of previously developed land now excludes private residential gardens to prevent developers putting new houses on the brownfield sites and the specified minimum density of 30 dwellings per hectare on new housing developments has been removed. The changes are to reduce overcrowding, retain residential green areas and put planning permission powers back into the hands of local authorities. (June 2010)

5.4 **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.

5.5 **Circular 05/2005 - Planning Obligations:** Advises that planning obligations must be relevant to planning, necessary, directly related to the proposed development, fairly and reasonably related in scale and kind and reasonable in all other respect.

5.6 **East of England Plan 2008**

SS1 Achieving sustainable development
ENV7 Quality in the built environment

5.7 **Cambridge Local Plan 2006**

3/1 Sustainable development
3/4 Responding to context
3/7 Creating successful places
3/12 The design of new buildings
4/13 Pollution and amenity
5/1 Housing provision

Planning Obligation Related Policies

3/8 Open space and recreation provision through new development
5/14 Provision of community facilities through new development

5.8 **Supplementary Planning Documents**

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.

5.9 Material Considerations

Cambridge City Council (2004) – Planning Obligation Strategy: Sets out the Council's requirements in respect of issues such as public open space, transport, public art, community facility provision, affordable housing, public realm improvements and educational needs for new developments.

6.0 CONSULTATIONS

Cambridgeshire County Council (Engineering)

6.1 Further details required. Conditions and Informatives requested if other information submitted.

Head of Environmental Services

6.2 Conditions requested.

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:

1 Green End Road
1A Green End Road
3 Green End Road
5 Green End Road
408 Milton Road

7.2 The representations can be summarised as follows:

Impact upon the privacy of existing residents
Traffic congestion and safety issues
Increase in noise disturbance
Loss of character
Overdevelopment of number 412
Removal of parking spaces which were key to prior permission
Vehicular parking issues/Access issues

Potential Mortgage implications

- 7.3 The above representations are a summary of the comments that have been received. The majority of comments, aside from those relating to the potential for Mortgage-related issues, echo those received in the determination of the prior application. 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. Highway safety
5. Third party representations
6. Prior Appeal Decision
7. Planning Obligation Strategy

Principle of Development

- 8.2 The ODPM in a statement of February 2006, said, ‘ back gardens have been designated brownfield land since 1985, but we have made clear in our Planning Policy that this does not mean all gardens are up for grabs. Local Planning Authorities can already turn down applications for buildings in gardens if they are inappropriate or out of character with the Local Community. Well designed communities should involve high densities alongside attractive garden spaces as well.’ More recent guidance (19 January 2010) makes the point that, ‘ there is no presumption that previously developed land is necessarily suitable for housing, nor that all of the curtilage should be developed.’
- 8.3 The application seeks to provide an additional residential property, and will be sited within the medium sized garden to the rear of the existing property. The application will provide a further dwelling within a primarily residential area.

- 8.4 The Secretary of State's letter to Chief Planning Officers of 15th June 2010 states that the objective of the changes made to PPS3 are 'to give local authorities the opportunity to prevent overdevelopment of neighbourhoods and 'garden-grabbing''. The letter does not define the term 'garden-grabbing', but there is no indication in the letter, or in the revisions to PPS3, that development in private residential gardens should be prohibited. The major change relevant to this application in the revised PPS3 is that the definition of 'previously-developed land' in the guidance now specifically excludes the gardens of existing residential curtilages.
- 8.5 Therefore, none of the application site is 'previously developed' land. Government advice in paragraph 41 of PPS3 (2010) is that 60% of new housing development should be on previously developed land. In paragraph 36 of the same revised statement the advice is that the priority for residential development should be previously developed land, which means that the application site cannot be considered a priority for new housing development. Any proposal to develop the site for housing must include an explanation and justification of why this low-priority site should be brought forward for development.
- 8.6 Although the application has not been brought forward with any explanation or justification for the principle or residential development on this site, which is not previously-developed land and could be regarded as being of a low priority for development, in my view this is not necessary in this case. The development is not on a highly visible site and the existing garden does not make a positive contribution to the character of the streetscene. The Inspectors decision was made in the light of the most recent Government guidance (June 2010) and in my view is a very significant consideration in this case. In my view the loss of garden space is not significant in this case, and I have no objection to the principle of development.
- 8.7 The principle of development is broadly acceptable and in accordance with East of England Plan 2008 policies SS1 and Cambridge Local Plan policy 5/1, subject to assessment against other policies in the Local Plan.

Context of site, design and external spaces

- 8.8 The application site is located to the rear of a property, which has previously been extended, and has an existing permission for a further extension, which will reduce the existing rear garden size further. The application site (number 412 Milton Road) has been subject to a number of applications, including permission for the demolition of the existing dwelling and the creation of 4 flats. This permission included the land proposed as part of the current application being utilized for vehicle parking. There has also been a prior refusal of an application relating to the creation of a chalet bungalow.
- 8.9 Although not within the application site boundary, I am conscious of the earlier (now lapsed) permission on the site immediately to the north-east, the Co-op store. Permission for 3 flats at first floor level, above the shop, which would further constrain the application site, has recently expired. However, I am not clear that the basis on which the appeal was initially allowed has changed so fundamentally that a further application could be refused, if reapplied for.
- 8.10 The Milton Road frontage has a mix of detached and semi-detached residential properties, with long rear gardens. There are a number of structures in the rear of number 408 to the west of the application site, and a slim access route at the rear of the properties, alongside 1 Green End Road. There is a further “backland” property located at number 1A Green End Road, although I note this is located within a greater area of surrounding space, and has a lesser impact on the character of the neighbouring residential properties. Further to the south-west is Cook Close, where development has occurred on what were formally rear gardens by the introduction of a road. Although there is therefore residential development on sites to the rear of the frontages in the area, I still consider that this is an atypical form of development, and not a proposal that is in context with its surroundings. I do, however, note the points raised within the decision of the Planning Inspector during the appeal, who stated that:
- 8.11 “Whilst undoubtedly an example of ‘backland development’ I do not consider that a new house would be out of place here : In terms of Local Plan paragraph 3.11 the area is one of ‘weaker’

character and in this particular context, whilst undistinguished, I consider the house design to be an acceptable form.”

- 8.12 The design of the house is not in keeping with anything of note in the immediate locality, though 1A Green End Road is also a chalet of sorts. The proposal shows almost all glazing to the front and rear elements, looking towards the rear of 412 Milton Road, and the side of 1 Green End Road. The property has rooms at first floor level, although these are located within the roof structure, which allows the property to be of a reduced height. To the north-east of the property, flush to the boundary, is the blank facade of the Co-op store wall, which will prevent any light reaching the single window of the proposed property on this edge, but that serves a WC only. The proposed building makes use of velux windows to provide natural light to the upper floor.
- 8.13 The building itself is a simple design, although I note that its siting within the garden (occupying nearly the full width, and approximately half the length of the existing garden) will emphasise its mass within the garden area. The closest element of the new building will be approximately 20.5 metres from the rear of number 412, as existing, but this would be reduced to 14.4 metres when taking into account the approved two-storey rear extension to number 412, though the lack of consistency in the plans does not help. That notwithstanding, I still maintain concerns that the distance between the existing and proposed properties is small and that, combined with the proximity of the wall of the adjacent Co-op building, will introduce the potential for the proposed building to feel “hemmed in.” The entrance element of the proposed dwelling is approximately 10.8 metres from the side of 1A Green End Road, but I do not consider that unacceptable. I note the decision of the Planning Inspector, who considered that the proximity of this wall would enhance the “seclusion” of the new building, and the protection from noise afforded by the wall would “outweigh any overbearing effect” which the close proximity of the wall to the residence would have.
- 8.14 In my opinion, following the Inspectors decision in relation to the appeal, the proposal broadly respects the context and adequately responds to the constraints of the site, and is therefore compliant with East of England Plan (2008) policy

ENV7, and Cambridge Local Plan (2006) policies 3/4, 3/7 and 3/12.

Residential Amenity

Impact on amenity of neighbouring occupiers

- 8.15 The proposal will increase yet further the degree of enclosure to the rear garden area of number 412 and 410 Milton Road. The introduction of a dwelling on the rear garden of 412, close to the boundary, will have the potential to increase the domination already suffered as a consequence of the Co-op wall and will constitute a degree of visual imposition, and intrusion on the rear garden space of 410. There will be little impact upon the Co-Op supermarket due to the blank facade against which the building is proposed to be sited and limited impact on 1 and 1A Green End Road. The Planning Inspector has stated however, that „ There would be no conflict with the aims of Local Plan policies which seek to protect residential amenity.„
- 8.16 To the front and rear of the building, where the primary glazing is located, there will be the potential for significant overlooking, especially from the rear toward 410 and 412 and a subsequent impact upon the privacy afforded to neighbouring residents. An attempt has been made to mitigate this in relation to 412, by a proposed 2.5m tall fence separating the two curtilages, but I consider that the height of the fence is excessive, and will increase the feeling of enclosure for 412 and does not overcome potential problems at first floor level. I consider that although there are more windows to the front, they will have a lesser impact upon the privacy/amenity of 1 and 1A Green End Road and the end of the garden of 410 and that it is not significant enough to justify refusal. The Inspectors report stated that he was satisfied that there would be no detrimental overlooking, nor any detrimental impact upon neighbours, and that a 2m high fence would be sufficient to mitigate any interlooking. In the light of these comments I do not consider that my concerns can reasonably justify a recommendation of refusal of the application.
- 8.17 In my opinion, following the Inspectors decision in relation to the appeal, the proposal adequately respects the residential amenity of its neighbours and the constraints of the site and I

consider that it is not compliant with East of England Plan (2008) policy ENV7, and Cambridge Local Plan (2006) policies 3/4, 3/7 and 3/10.

Amenity for future occupiers of the site

- 8.18 I note the potential for amenity impacts to the future residents of the proposed dwelling, those of overlooking and a sense of enclosure as a result of the proximity of neighbouring properties and the adjacent wall of the Co-Op building, but in light of the decision of the Planning Inspectorate, which detailed that the proposal would provide a satisfactory environment for future occupants, I consider that in this respect it is compliant with East of England Plan (2008) policy ENV7, and Cambridge Local Plan (2006) policies 3/7, and 3/12.

Highway Safety

- 8.19 The Highways Authority voiced concerns within consultations relating to the proposed access from Green End Road, requesting further information, and clarification of a number of details. The parking arrangements and general access were suggested to require further alteration and rearrangement to be satisfactory. The plans do not demonstrate that off-street parking can be achieved and vehicles can enter and leave the site in forward gear, which is seen as important so close to the junction and a parking lay-by much used in association with the shop.
- 8.20 I consider that there are still aspects of the proposal in relation to Highway safety, and specifically those in relation to parking facilities which could be noted as a concern. I note the Inspectors decision in relation to vehicular movements, and I am satisfied that subject to the imposition of conditions 6-11 (relating to surfacing materials, retention of parking arrangements, drainage, maintenance of space) the proposal will adequately address the requirements of the East of England Plan 2008 policy T14, Cambridge Local Plan 2006 policy 8/10, and the requirements of the Highways Authority.

Third Party Representations

- 8.21 I am satisfied that I have addressed the concerns detailed within the representations in the paragraphs above.

Planning Obligation Strategy

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

Open Space

8.23 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.

8.24 The application proposes the erection of one three-bedroom house. No residential units would be removed, so the net total of additional residential units 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 children's play space 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	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

8.25 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 Cambridgeshire and Peterborough Structure Plan (2003) policies P6/1 and P9/8 and Cambridge Local Plan (2006) policies 3/8 and 10/1.

Community Development

8.26 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

8.27 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 Cambridgeshire and Peterborough Structure Plan (2003) policies P6/1 and P9/8 and Cambridge Local Plan (2006) policies 5/14 and 10/1.

Waste

8.28 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

8.29 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 Cambridgeshire and Peterborough Structure Plan (2003) policies P6/1 and P9/8 and Cambridge Local Plan (2006) policies 3/7, 3/12 and 10/1.

Conclusion

8.30 It is my view that the planning obligation is necessary, directly related to the development and fairly and reasonably in scale and kind to the development and therefore the Planning Obligation passes the tests set by the Community Infrastructure Levy Regulations 2010. Subject to conditions imposed at the request of the Environmental Health and Highways Authority, I consider that the proposal is acceptable, in accordance with the decision of the Planning Inspector dated 29th November 2010.

9.0 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. 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. (East of England Plan 2008 policy ENV7 and Cambridge Local Plan 2006 policies 3/4, 3/12 and 3/14)

3. Except with the prior written agreement of the local planning authority in writing 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. 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)

5. 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)

6. 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

7. 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.

8. The access shall be constructed with adequate drainage measures to prevent surface water run-off onto the adjacent public highway, in accordance with a scheme submitted to and approved in writing by the Local Planning Authority, in consultation with the Highway Authority.

Reason: To prevent surface water discharging to the highway.

9. The manoeuvring area as shown on the drawings shall be maintained so that it is free of any obstruction that would prevent a domestic vehicle from being able to manoeuvre with ease so it may enter and leave the property in a forward gear.

Reason: In the interests of highway safety.

10. The access shall be provided as shown on the approved drawings and retained free of obstruction.

Reason: In the interests of highway safety.

11. No further openings shall be made to the elevation facing Green End Road and adjacent to the Co-Op without the submission of a noise assessment regarding the impact of the external noise sources on the proposed dwelling and prior approval in writing of the local planning authority.

Reason: To protect the amenity of future residents of the proposed property (Cambridge Local Plan 2006 policy 4/13)

12. 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 neighbouring occupants (Cambridge Local Plan 2006 policy 4/13)

INFORMATIVE: Should the bedrooms within the property be occupied by persons that are not blood related, therefore as a house in multiple occupation, then an appropriate level of fire precautions shall be required within in order to reflect the level of risk associated with this mode of occupancy. The Housing Standards Team within Cambridge City Council can provide further information/advice regarding this. No such occupation shall be realised without the prior permission of the Environmental Health Department.

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

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

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).

Reasons for Approval

1. This development has been approved subject to conditions and the prior completion of a section 106 planning obligation (/a unilateral undertaking), because subject to those requirements it is considered to conform to the Development Plan as a whole, particularly the following policies:

East of England plan 2008: SS1, ENV7

Cambridge Local Plan (2006): 3/1, 3/4, 3/7, 3/8, 3/10, 4/13

2. The decision has been made having had regard to all other material planning considerations, none of which was considered to have been of such significance as to justify doing other than grant planning permission.

These reasons for approval can be a summary of the reasons for grant of planning permission only. For further details on the decision please see the officer report online at www.cambridge.gov.uk/planningpublicaccess or visit our Customer Service Centre, Mandela House, 4 Regent Street, Cambridge, CB2 1BY between 8am to 6pm Monday to Friday.

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Under Section 100D of the Local Government Act 1972, the following are “background papers” for each report on a planning application:

1. The planning application and plans;

2. Any explanatory or accompanying letter or document from the applicant;
3. Comments of Council departments on the application;
4. Comments or representations by third parties on the application as referred to in the report plus any additional comments received before the meeting at which the application is considered; unless (in each case) the document discloses "exempt or confidential information"
5. Any Structure Plan, Local Plan or Council Policy Document referred to in individual reports.

These papers may be inspected by contacting John Summers (Ext.7103) in the Planning Department.

Planning Inspector's Decision.

Appeal Decision

**Site visit made on 3 November 2010 by David Harrison BA DipTP
MRTPI**

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

Decision date: 29 November 2010

Appeal Ref: APP/Q0505/A/10/2129719

412 Milton Road, Cambridge CB4 1SU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by D & M Properties against the decision of Cambridge City Council.
- The application Ref :10/0155/FUL, dated 22 February 2010, was refused by notice dated 26 April 2010.
- The development proposed is the erection of a 3-bed dwelling at the rear of the site.

Decision

1. I dismiss the appeal.

Procedural matters

2. There was no representative from the Council present when I arrived at the site. I waited for 15 minutes after which the appellant's representatives left and I carried out the inspection unaccompanied by either party.

Main issues

3. The main issues are the effect on the character and appearance of the area (Refusal reason 1), the effect upon the amenities of the future occupants of the proposed dwelling and the occupants of nearby dwellings (Refusal reason 2), the suitability of the access and the effect upon highway safety (Refusal reason 3), and whether the proposal is in accordance with the Council's Planning Obligation Strategy (2004) (Refusal reason 4).

Assessment

4. A key objective of PPS3 *Housing* is that Local Planning Authorities should continue to make effective use of land by re-using land that has been previously developed. In June 2010 the definition of “previously developed land” in PPS3 was amended to exclude private residential gardens. Such sites are therefore no longer a high priority for development.

5. The Council refers to a number of policies in the Cambridge Local Plan 2006. It seems to me that Policy 3/10 *Sub-division of Existing Plots* is the most directly relevant policy. This states that residential development within gardens will not be permitted if it will, among other things, (a) have a significant adverse impact on the amenities of neighbouring properties through loss of privacy, loss of light, an overbearing sense of enclosure and the generation of unreasonable levels of traffic or noise nuisance, (b) provide inadequate amenity space, or vehicular access arrangements and parking spaces for the proposed and existing properties or (c) detract from the prevailing character and appearance of the area.

The effect on the character and appearance of the area

6. In addition to arguing that there is conflict with Policy 3/10 (c) the Council refers to Policy 3/4 *Responding to Context* which states that “Developments will be permitted which demonstrate that they have responded to their context and drawn inspiration from the key characteristics of their surroundings to create distinctive places. Such developments will, among other things, have used the characteristics of the locality to help inform the siting, massing, design and materials of the proposed development”. Supporting paragraph 3.11 states that “a development which responds positively to its context is one which will either enhance areas of existing high quality, or will seek to introduce a new and distinctive character to areas of weaker character”.

7. In the view of the Council the proposed development would fail to provide a high quality, stimulating living environment and the design does not take into account the context of the development.

8.No.412 is a detached house with a frontage to Milton Road with vehicle access and a parking area. Between the house and the corner of Green End Road is a single storey flat roofed Co-op supermarket which extends along Green End Road for most of the length of the rear garden. Access to the proposed house in the rear garden would be via an existing driveway from Green End Road at the far end of the supermarket. While undoubtedly an example of “backland development” I do not consider that a new house would be out of place here. I saw the other examples of “backland development” nearby, including the house at 1a Green End Road, the driveway to which runs along the end of the proposed plot. In terms of Local Plan paragraph 3.11 the area is one of “weaker character” and in this particular context, whilst undistinguished, I consider the house design to be an acceptable addition to the built form.

9. I do not consider that there is any material conflict with the aims of Policy 3/10 (c) or the other local plan policies referred to in relation to this issue.

The effect upon the amenities of the future occupiers of the proposed dwelling and the occupants of nearby dwellings
Future occupants

10. No.412 currently has a long rear garden and the sub-division will allow for reasonable sized rear gardens for both dwellings, even allowing for the as yet un-built extension that has been approved at the rear of the existing house.

11. The Council is concerned that the long flank wall of the Co-op building would have an overbearing effect upon the occupants of the proposed house. In the Committee Report recommending refusal it appears that the officer was under the impression that the proposed dwelling was to be sited “to the immediate north of the adjacent supermarket” whereas the supermarket is actually to the north-east of the proposed dwelling. The confusion may be due to the lack of a north point on the plans; the site plan is “upside down”. However, the decision notice describes the relationship correctly. The supermarket wall is of buff brick and runs for the length of No.412 and its garden. Being to the north-east of the house and garden it will not reduce the amount of sunlight available. On balance, I think the sense of seclusion and the effect of reducing traffic noise outweighs any overbearing effect that might be caused by the blank wall. The

Council also suggest that an expired permission for 3 flats on top of the single storey Co-op building should be taken into account. I agree that a similar scheme could be re-submitted, but I have not seen the plans of the expired scheme and cannot attach significant weight to this.

12. A 2.5 m high fence is proposed to separate the new dwelling from the existing, but a height of 2 m should be sufficient to overcome any overlooking between ground floor windows and this would not have an overbearing or oppressive effect. My conclusion is that a satisfactory living environment for the future occupants can be achieved.

Adjoining occupiers

13. I do not consider that there would be any overlooking of No.412 or No.410, the bungalow to the west, and there would be no overbearing effect upon the latter. Nor is there likely to be a material impact upon the amenities of the occupier of No.1 Green End Road due to disturbance from traffic using the access.

14. My conclusion on this issue is that there would be no conflict with the aims of local plan policies which seek to protect residential amenity.

The suitability of the access and the effect upon highway safety

15. The vehicular access would be via an existing driveway direct from Green End Road parallel to the access to No.1a. There is sufficient room within the site to allow for a parking space and turning area and to accommodate cycle storage facilities. This could be achieved by the imposition of suitable planning conditions and concerns about the access and highway safety do not amount to a reason for refusing to allow the development.

The Council's Planning Obligation Strategy (2004)

16. The fourth reason for refusal is that the proposal does not make appropriate provision for public open space, community development facilities and life-long learning in accordance with the Council's policies and the Planning Obligation Strategy 2004. The Committee Report only refers to the requirement to make a financial contribution towards the provision of open space (formal open space, informal open space and children's play space) and not the other two matters.

As there is no explanation of, or justification for, the likely level of contribution that might be required in relation to community development facilities and lifelong learning I have only considered the question of public open space.

17. Local Plan Policy 3/8 Open Space and Recreation Provision through New

Development requires all residential development to provide public open space and where the small scale of development precludes this a commuted payment is required. I have considered the need for such a financial contribution in the light of the three tests set out in the Community Infrastructure Levy Regulations (Regulation 122). The sum required by the Council is calculated on the assumed number of occupants of the proposed 3 bedroom house. I consider that the required financial contribution is necessary in order to make the development acceptable in planning terms; it is directly relevant to the development and is fairly and reasonably related in scale and kind to the development.

18. The appellant has indicated a willingness to make “any reasonable payment necessary”. It is unfortunate that the Council did not make its requirements under its Planning Obligation Strategy clear when the application was under consideration so that an undertaking could have been entered into earlier. If this had been done I would be in a position to allow the appeal subject to conditions, but in the absence of such an agreement there is no certainty that a contribution would be made to what I regard as an important community facility. Having taken into account all other matters raised, I have no alternative other than to dismiss the appeal.

David Harrison
Inspector