

Application Number	18/1459/S73	Agenda Item	
Date Received	14th September 2018	Officer	Mairead O'Sullivan
Target Date	9th November 2018		
Ward	East Chesterton		
Site	Land To The Rear Of 1 Fen Road And Rear Of 179 - 183 Water Street Cambridge CB4 1PB		
Proposal	Section 73 application to vary condition 2 (Approved Drawings) of permission 17/0675/FUL (Demolition of existing garages and erection of three 2bed dwellings with associated landscaping and access arrangements) to permit increase of building height due to site conditions.		
Applicant	C/o Agent		

SUMMARY	<p>The development accords with the Development Plan for the following reasons:</p> <ol style="list-style-type: none"> 1. The increased height for which permission is sought would not materially harm the character and appearance of the area 2. The increased height for which permission is sought would not have a significant impact on neighbour amenity
RECOMMENDATION	APPROVAL

1.0 SITE DESCRIPTION/AREA CONTEXT

1.1 The site lies on the west side of Fallowfield. It formerly accommodated a block of eleven concrete garages as well as part of the rear gardens of Nos. 179, 181 & 183 Water Street. It is now occupied by three two-bedroom detached houses constructed following a grant of planning permission under reference 17/0675/FUL.

1.2 On the south-east side of the site, and directly abutting Fallowfield, is a recently constructed, detached, 2-bedroom,

barrel-roofed dwelling for which consent was granted in 2015 (Ref: 15/0818/FUL). Further to the south is No. 1 Fen Road, a semi-detached Victorian dwelling that lies at the eastern end of a row of similar Victorian properties. To the north is Hodge House, a modern two-storey development of seven flats, beyond which is an estate of predominantly semi-detached and terraced two-storey houses. Opposite the site are the gardens of 3 and 5 Fen Road, another pair of semi-detached Victorian properties.

2.0 THE PROPOSAL

2.1 The three houses permitted under 17/0675/FUL have been constructed. Although the ground-to-eaves and ground-to roof ridge heights of the houses are in accordance with the permission, ground levels on the site have not been maintained as shown on the application drawings. Consequently the three houses are set higher relative to neighbouring buildings than the permission allows. Whereas the drawings approved under 17/0675/FUL show the ridge heights of the three houses being at exactly the same height as the apex of the barrel roof to the south, the houses at the south end of the site, on Plots 2 and 3 stand 450mm higher than this roof, and the house on Plot 1 at the north end of the site is 200mm higher. This application seeks to regularise the development as built by substituting new drawings showing the actual ground levels (and consequently other heights) of the development.

3.0 SITE HISTORY

Reference	Description	Outcome
17/0675/FUL	Demolition of existing garages and erection of three 2 bed dwellings with associated landscaping and access arrangements	Approved with conditions
16/1573/FUL	Demolition of existing garages and erection of three 2 bed dwellings with associated landscaping and access arrangements	Withdrawn
16/0573/FUL	Demolition of existing garages and erection of four 2 bed	Withdrawn

	dwelling with associated landscaping and access arrangements	
15/0881/FUL	Erection of a dwelling and associated works on land to the rear of 1 Fen Road, fronting Fallowfields	Approved
10/0532/FUL	Erection of 2 three bed dwellings	Refused. Appeal dismissed
09/1132/FUL	Erection of 5 new 1 bedroom apartments	Refused
09/0847/FUL	Erection of 5 new 1 bedroom apartments	Withdrawn
C/72/0385	Erection of two garages	Approved

4.0 PUBLICITY

Adjoining occupiers only.

5.0 POLICY

5.1 See Appendix 1 for full details of Central Government Guidance, Cambridge Local Plan 2018 policies, Supplementary Planning Documents and Material Considerations.

5.2 Relevant Development Plan policies

PLAN		POLICY NUMBER
Cambridge Plan 2018	Local	1 55 57

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

Central Government Guidance	National Planning Policy Framework July 2018 National Planning Policy Framework – Planning Practice Guidance from 3 March 2014 onwards Circular 11/95 (Annex A)
Previous Supplementary Planning Documents	Sustainable Design and Construction (May 2007) (This document, prepared to support policies in the 2006 local plan is no longer an SPD, but is still a material consideration.)
Material Considerations	<u>City Wide Guidance</u> Cambridge and Milton Surface Water Management Plan (2011) Cambridge and South Cambridgeshire Strategic Flood Risk Assessment (November 2010)

6.0 CONSULTATIONS

Cambridgeshire County Council (Highways)

6.1 No comment

Urban Design and Conservation Team

6.2 No urban design issues.

7.0 REPRESENTATIONS

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

- 3 Hodge House, 80 Fallowfield
- 3 Fen Road
- 17 Fen Road

- 5 Isaak Walton Way
- 169 Water Street
- 171 Water Street
- 173 Water Street
- 177 Water Street

7.2 Their concerns can be summarised as follows:

Impact of additional height

- Additional height is unacceptable.
- Would be more obtrusive.
- Would dominate views
- Would loom over adjacent properties, overshadowing and overlooking them
- Would adversely impact the amenity of neighbours

Implications of retrospective application

- Site conditions should have been addressed in the original survey.
- Clear before commencement that digging-down would be necessary to achieve the approved ridge height, because levels were discussed in representations and at the Forum
- Vital for the integrity of the planning system not to reward disregard of previous decision
- Makes a mockery of the planning system.
- Developer should be fined.

Other issues

- Evergreen trees not used in landscaping.

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 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. Principle of retrospective application

Context of site, design and external spaces

- 8.2 The additional height will make the roofs of these houses marginally more visible from some viewpoints. I do not consider this will have any significant impact on the character of the area.
- 8.3 In my opinion, the proposal is compliant in respect of its impact on the context with Cambridge Local Plan (2018) policies 55 and 57.

Residential Amenity

- 8.4 The increase in height proposed in this application is limited. I do not consider that the altered angles of view created would have any significant impact on overlooking. I do not consider that the additional height would make the proposed houses overbearing.
- 8.5 Having examined the shadow studies submitted at the time of the original, I am satisfied that the slight changes to shadow patterns occasioned by the height increase would not have any significant harmful impact.
- 8.6 In my view, the proposed development would not have any significant adverse impact on the residential amenity of the surrounding neighbours in terms of privacy, outlook or sunlight. In terms of neighbour amenity, it is compliant with policies 55 and 57 of the Cambridge Local Plan 2018.

Principle of Retrospective Application

- 8.7 It is a long-established principle of the planning system that the determination of a planning application must be made on the merits of the proposed development itself, and that the retrospective nature of an application must not prejudice the assessment on that basis. Notwithstanding the frustration often felt by local planning authorities and third parties at such applications, the integrity of the planning system is not undermined by this principle, but sustained by it. I do not consider that the increased height proposed in this application

would cause any significant harm in itself, and consequently, refusal of the application would be contrary to both policy 1 of the Cambridge Local Plan 2018, and the presumption in favour of sustainable development set out in Paragraph 11 of the NPPF. There is no provision in the planning system for fining those who make retrospective applications.

Third Party Representations

8.8 I have addressed the issues raised in representations apart from the question of the selection of tree species submitted to discharge the landscape condition. This is not an issue related to the development proposed in this application

9.0 CONCLUSION

9.1 In conclusion, I consider that the proposed development is acceptable and would comply with the provisions of the relevant Development Plan Policies. As such, approval subject to conditions is recommended.

10.0 RECOMMENDATION

APPROVE subject to the following conditions:

1. 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.

2. Conditions 3-24 of planning permission 17/0675/FUL (set out below as conditions 3-24) shall continue to apply to this permission. Where such conditions pertaining to 17/0675/FUL have been discharged, the development of 18/1459/S73 shall be carried out in accordance with the terms of discharge and those conditions shall be deemed to be discharged for this permission also.

Reason: To define the terms of the application.

3. Prior to the commencement of the development (or phase of) or investigations required to assess the contamination of the site, the following information shall be submitted to and approved in writing by the local planning authority:

(a) Desk study to include:

-Detailed history of the site uses and surrounding area (including any use of radioactive materials)

-General environmental setting.

-Site investigation strategy based on the information identified in the desk study.

(b) A report setting out what works/clearance of the site (if any) is required in order to effectively carry out site investigations.

Reason: To adequately categorise the site prior to the design of an appropriate investigation strategy in the interests of environmental and public safety in accordance with Cambridge Local Plan 2018 Policy 33.

4. Prior to the commencement of the development (or phase of) with the exception of works agreed under condition 3 and in accordance with the approved investigation strategy agreed under clause (b) of condition 3, the following shall be submitted to and approved in writing by the local planning authority:

(a) A site investigation report detailing all works that have been undertaken to determine the nature and extent of any contamination, including the results of the soil, gas and/or water analysis and subsequent risk assessment to any receptors

(b) A proposed remediation strategy detailing the works required in order to render harmless the identified contamination given the proposed end use of the site and surrounding environment including any controlled waters. The strategy shall include a schedule of the proposed remedial works setting out a timetable for all remedial measures that will be implemented.

Reason: To ensure that any contamination of the site is identified and appropriate remediation measures agreed in the interest of environmental and public safety in accordance with Cambridge Local Plan 2018 Policy 33.

5. Prior to the first occupation of the development (or each phase of the development where phased) the remediation strategy approved under clause (b) to condition 4 shall be fully implemented on site following the agreed schedule of works.

Reason: To ensure full mitigation through the agreed remediation measures in the interests of environmental and public safety in accordance with Cambridge Local Plan 2018 Policy 33.

6. Prior to the first occupation of the development (or phase of) hereby approved the following shall be submitted to, and approved by the local planning authority.
 - (a) A completion report demonstrating that the approved remediation scheme as required by condition 4 and implemented under condition 5 has been undertaken and that the land has been remediated to a standard appropriate for the end use.
 - (b) Details of any post-remedial sampling and analysis (as defined in the approved material management plan) shall be included in the completion report along with all information concerning materials brought onto, used, and removed from the development. The information provided must demonstrate that the site has met the required clean-up criteria.

Thereafter, no works shall take place within the site such as to prejudice the effectiveness of the approved scheme of remediation.

Reason: To demonstrate that the site is suitable for approved use in the interests of environmental and public safety in accordance with Cambridge Local Plan 2018 Policy 33.

7. Prior to importation or reuse of material for the development (or phase of) a Materials Management Plan (MMP) shall be submitted to and approved in writing by the Local Planning Authority. The MMP shall:
 - a) Include details of the volumes and types of material proposed to be imported or reused on site
 - b) Include details of the proposed source(s) of the imported or reused material

- c) Include details of the chemical testing for ALL material to be undertaken before placement onto the site.
- d) Include the results of the chemical testing which must show the material is suitable for use on the development
- e) Include confirmation of the chain of evidence to be kept during the materials movement, including material importation, reuse placement and removal from and to the development.

All works will be undertaken in accordance with the approved document.

Reason: To ensure that no unsuitable material is brought onto the site in the interest of environmental and public safety in accordance with Cambridge Local Plan 2018 policy 33.

8. If unexpected contamination is encountered whilst undertaking the development which has not previously been identified, works shall immediately cease on site until the Local Planning Authority has been notified and/or the additional contamination has been fully assessed and remediation approved following steps (a) and (b) of condition 4 above. The approved remediation shall then be fully implemented under condition 5

Reason: To ensure that any unexpected contamination is rendered harmless in the interests of environmental and public safety in accordance with Cambridge Local Plan 2018 Policy 33.

9. No development shall take place until full details 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 2018 policies 55 and 57).

10. 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 2018 policies 55, 57 and 59).

11. No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the building(s) is/are occupied and retained thereafter unless any variation is agreed in writing by 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 2018 policies 55, 57 and 59).

12. No construction work or demolition work shall be carried out or plant operated other than between the following hours: 0800 hours and 1800 hours on Monday to Friday, 0800 hours and 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 2018 policy 35).

13. There should be no collections from or deliveries to the site during the demolition and construction stages outside the hours of 0800 hours and 1800 hours on 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 2018 policy 35).

14. No air source heat pumps shall be installed unless a scheme for insulation in order to minimise the level of noise emanating from the said plant shall be submitted to and approved in writing by the local planning authority and the scheme as approved shall be fully implemented before the use of any air source heat pumps commences.

Reason: To protect the amenity of nearby properties (Cambridge Local Plan 2018 policy 35).

15. 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 from noise and/or vibration. Potential noise and vibration levels at the nearest noise sensitive locations shall be predicted in accordance with the provisions of BS 5228-1&2:2009 Code of Practice for noise and vibration control on construction and open sites. Development shall be carried out in accordance with the approved details.

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 the adjoining properties (Cambridge Local Plan 2018 policy 35).

16. 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 nearby properties (Cambridge Local Plan 2018 policy 36).

17. The finished ground floor level of the proposed development should be no lower than 5.85m AOD and there should be no raising of any existing external ground below a level of 5.55m AOD, as identified in the submitted FRA (MTC Engineering Aug 2016).

Reason: To mitigate against flood risk (Cambridge Local Plan 2018 policy 32).

18. Prior to the commencement of development a scheme for surface water drainage works shall be submitted to and approved in writing by the local planning authority. The details shall include an assessment of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in the National Planning Policy Framework and the National Planning Policy Guidance, and the results of the assessment provided to the local planning authority. The system should be designed such that there is no surcharging for a 1 in 30 year event and no internal property flooding for a 1 in 100 year event + an allowance for climate change. The submitted details shall include the following:

- 1) Information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- 2) A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The approved details shall be fully implemented on site prior to the first use/occupation and shall be retained thereafter.

Reason: To ensure appropriate surface water drainage (Cambridge Local Plan 2018 policies 31 and 32).

19. No development hereby permitted shall be commenced until infiltration testing results and hydraulic calculations in accordance with BRE Digest 365 have been undertaken and submitted in writing to the local planning authority.

If infiltration is demonstrated unfeasible and a connection to the adopted surface water sewer is proposed, the drainage details should also be submitted to Anglian Water and their written acceptance of the scheme submitted to the local planning authority. A maximum discharge of 2l/s will be accepted unless justification is provided to and accepted by the local planning authority. The development shall be carried out in accordance with the approved drainage details.

Reason: To ensure adequate surface water drainage of the site (Cambridge Local Plan 2018 policies 31 and 32).

20. The driveway hereby approved shall be constructed using a bound material for the first 6m from the back of the adopted public highway, to prevent debris spreading onto the adopted public highway. Once constructed the driveway shall thereafter be retained as such.

Reason: In the interests of highway safety (Cambridge Local Plan 2018 policy 81).

21. 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 (Cambridge Local Plan 2018 policies 31, 32 and 81).

22. Prior to the commencement of the first use the vehicular access where it crosses the public highway shall be laid out and constructed in accordance with the approved drawing and retained free of obstruction thereafter.

Reason: In the interests of highway safety and to ensure satisfactory access into the site (Cambridge Local Plan 2018 policy 81).

23. Prior to occupation of the development hereby approved, the cycle parking and bin storage provision shall be implemented in accordance with the details shown on drawing no.PL-1-01 Rev P5 unless otherwise agreed in writing. The provision shall be retained in accordance with the approved details thereafter.

Reason: To ensure sufficient cycle and bin storage provision for the development (Cambridge Local Plan 2018 policies 56, 57 and 82).

24. Notwithstanding the provisions of Schedule 2, Part 1, Classes A and B of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that order with or without modification), the enlargement, improvement or other alteration of the dwellinghouse(s), including the insertion of any dormer windows, shall not be allowed without the granting of specific planning permission.

Reason: To protect the amenity of adjoining properties and to preserve the character of the area (Cambridge Local Plan 2018 policies 55, 57 and 58).

INFORMATIVE: To satisfy the plant sound insulation condition, the rating level (in accordance with BS4142:2014) from all plant, equipment and vents etc (collectively) associated with this application should be less than or equal to the existing background level (L90) at the boundary of the premises subject to this application and having regard to noise sensitive premises.

Tonal/impulsive sound frequencies should be eliminated or at least considered in any assessment and should carry an additional correction in accordance with BS4142:2014. This is to prevent unreasonable disturbance to other premises. This requirement applies both during the day (0700 to 2300 hrs over any one hour period) and night time (2300 to 0700 hrs over any one 15 minute period).

It is recommended that the agent/applicant submits an acoustic prediction survey/report in accordance with the principles of BS4142:2014 "Methods for rating and assessing industrial and commercial sound" or similar, concerning the effects on amenity rather than likelihood for complaints. Noise levels shall be predicted at the boundary having regard to neighbouring premises.

It is important to note that a full BS4142:2014 assessment is not required, only certain aspects to be incorporated into an acoustic assessment as described within this informative.

Such a survey / report should include: a large scale plan of the site in relation to neighbouring premises; sound sources and measurement / prediction points marked on plan; a list of sound sources; details of proposed sound sources / type of plant such as: number, location, sound power levels, sound frequency spectrums, sound directionality of plant, sound levels from duct intake or discharge points; details of sound mitigation measures (attenuation details of any intended enclosures, silencers or barriers); description of full sound calculation procedures; sound levels at a representative sample of noise sensitive locations and hours of operation.

Any report shall include raw measurement data so that conclusions may be thoroughly evaluated and calculations checked.