

PLANNING AND ENVIRONMENTAL PROTECTION COMMITTEE

TUESDAY 3 APRIL 2018
1.30 PM

Bourges/Viersen Rooms - Town Hall

AGENDA

Page No

1. **Apologies for Absence**
2. **Declarations of Interest**

At this point Members must declare whether they have a disclosable pecuniary interest, or other interest, in any of the items on the agenda, unless it is already entered in the register of members' interests or is a "pending notification " that has been disclosed to the Solicitor to the Council.

3. **Members' Declaration of intention to make representations as Ward Councillor**
4. **Minutes of the Meeting Held on 13 March 2018** 5 - 14
5. **Development Control and Enforcement Matters**
 - 5.1 **17/02375/FUL - Morrisons Lincoln Road Peterborough PE4 6WS.** 15 - 28
 - 5.2 **18/00092/HHFUL - 8 Borrowdale Close Gunthorpe Peterborough PE4 7YA.** 29 - 40
 - 5.3 **17/00157/ENFCOU - 89 Fengate Peterborough PE1 5BA.** 41 - 56

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Committee Members:

Councillors: G Casey (Vice Chairman), L Serluca, C Harper (Chairman), Bull, P Hiller, J Stokes, S Martin, Clark, Iqbal Bond and C Ash

Substitutes: Councillors: Bisby, Sylvester, N Sandford and B Saltmarsh

Further information about this meeting can be obtained from Dan Kalley on telephone 01733 296334 or by email – daniel.kalley@peterborough.gov.uk

CASE OFFICERS:

Planning and Development Team: Nicholas Harding, Lee Collins, Paul Smith, Mike Roberts, Janet Maclennan, David Jolley, Louise Simmonds, Vicky Hurrell, Sundas Shaban, Amanda McSherry, Sam Falco, Matt Thomson, Michael Freeman, Jack Gandy, Carry Murphy, Joe Davies

Minerals and Waste: Theresa Nicholl, Alan Jones

Compliance: Nigel Barnes, Anthony Whittle, Karen Cole, Julie Robshaw

NOTES:

1. Any queries on completeness or accuracy of reports should be raised with the Case Officer, Head of Planning and/or Development Management Manager as soon as possible.
2. The purpose of location plans is to assist Members in identifying the location of the site. Location plans may not be up-to-date, and may not always show the proposed development.
3. These reports take into account the Council's equal opportunities policy but have no implications for that policy, except where expressly stated.
4. The background papers for planning applications are the application file plus any documents specifically referred to in the report itself.
5. These reports may be updated orally at the meeting if additional relevant information is received after their preparation.

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**MINUTES OF THE PLANNING AND ENVIRONMENTAL PROTECTION COMMITTEE
MEETING
HELD AT 1:30PM, ON
TUESDAY, 13 MARCH 2018
BOURGES/VIERSEN ROOM, TOWN HALL, PETERBOROUGH**

Committee Members Present: (Chairman) Harper, (Vice-Chair) Casey, Councillors Bull, Stokes, Serluca, Clark, Martin A Iqbal, Ash and Hiller

Officers Present: Lee Collins, Development Management Manager
Dan Kalley, Senior Democratic Services Officer
Stephen Turnbull, Planning Solicitor
Richard Kay, Head of Sustainable Growth and Strategy
Gemma Wildman, Principal Planning Officer
Simon Ireland, Head of PCC Highways

61. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Bond.

62. DECLARATIONS OF INTEREST

Councillor Bull declared a personal interest in item 7.1 by virtue of knowing members of the Broadway Residents Association, but was not pre-determined on the application.

Councillor Stokes declared a non-pecuniary interest in item 7.3 as she was a board member for the North Level District Internal Drainage Board.

Councillor Hiller declared a non-pecuniary interest in item 7.3 as he was a board member for the North Level District Internal Drainage Board.

63. MEMBERS' DECLARATION OF INTENTION TO MAKE REPRESENTATIONS AS WARD COUNCILLOR

None were received.

64. MINUTES OF THE PLANNING AND ENVIRONMENTAL PROTECTION COMMITTEE MEETING HELD ON 30 JANUARY 2018

The minutes of the meeting held on 30 January 2018 were agreed as a true and accurate record save for the following change to minute number 55:

From:
(said Councillor had made any representations on the application).

To:
(said Councillor had not made any representation on the application).

At this point the Committee agreed to bring forward the items on the Peterborough Local Plan and Supplementary Update and Minerals and Waste report. In addition the

Committee agreed to move the application on 20 Broadway Gardens forward to the first determination on the agenda.

65. PETERBOROUGH LOCAL PLAN AND SUPPLEMENTARY DOCUMENTS UPDATE

The Planning and Environmental Protection Committee received a report in relation to the Proposed Submission Local Plan which was approved by Full Council on 13 December 2017. Following the closure of the Proposed Submission Local Plan consultation on 20 February 2018 the report provided an update on the consultation and explained the next stages involved in the production of the Local Plan.

The Committee were informed that the report also provided an update on a number of Supplementary Planning Document (SPDs) which were intended to support the new Local Plan and that were currently available for public consultation.

The Principal Planning Officer updated the Committee and confirmed that responses to the consultation were currently being processed and would be published on the Council's website. It was hoped that the summary of responses and Local Plan would be submitted to the Secretary of State in early April. Following this the Inspector would hold a public hearing and a report with modifications would be prepared and brought back to Full Council at the end of the year.

The Committee were informed that the Council was updating its Developer Contributions SPD and Flood and Water Management SPD. It was also preparing a new Green Infrastructure and Biodiversity SPD

In response to questions from the Committee the Principal Planning Officer stated that this was a good opportunity to update the policies and make them align.

RESOLVED: That the Planning Committee notes:

1. The progress on the Peterborough Local Plan;
2. That three Supplementary Planning Documents are currently available for public consultation and that, should it see fit, the committee can offer any comments on them.

66. MINERALS AND WASTE LOCAL PLAN - PRELIMINARY DRAFT FOR CONSULTATION

The Planning and Environmental Protection Committee received a report in relation to the new Minerals and Waste Local Plan, and for that Plan to be prepared jointly with Cambridgeshire County Council (CCC).

The Head of Sustainable Growth Strategy explained that a Cabinet decision was taken to prepare a new Minerals and Waste Local Plan, a 'preliminary draft' version of that plan needed to be approved by this council prior to a formal round of consultation. A number of future stages would also take place, before the plan is finalised and adopted. In response to questions from the Committee the Head of Sustainable Growth Strategy stated that clarification could be provided in the report that this was not the Combined Authority's plan.

RESOLVED:

1. That the Committee Considered, and made comments as it saw fit, in respect of the Cambridgeshire-Peterborough Minerals and Waste Local Plan - Preliminary Draft, prior to its consideration by Cabinet on 26 March 2018.
2. That Cabinet be asked to include clarification in the document that this plan has not been prepared by the Combined Authority.

67.1 18/00091/FUL - 20 BROADWAY GARDENS, PETERBOROUGH, PE1 4DU

The Planning and Environmental Protection Committee received a report in relation to seeking planning permission for the change of use of the site from a residential dwelling (Use Class C3) to a care home for 6no. children aged 16 to 18 years (Use Class C2 - residential institution). It was noted that the change of use had already taken place and therefore the application was retrospective.

The Development Management Manager introduced the report and update report. Members were informed that there were a number of things that the applicant could do without planning permission. However officers took a cautionary approach when the application was sought and had referred to Committee.

The principal of what was being proposed was deemed acceptable to planning officers, 16-18 accommodation was in short supply in the city. Highways had stated that there would be no further increases in traffic with this application.

Councillors Ferris, Shaz Nawaz and Peach, Ward Councillors, addressed the Committee and responded to questions from Members. In summary the key points highlighted included:

- There had never been such a unanimous rejection of the application. All letters that had been received had been in objection to this application.
- The full scale and size of the application was not given to residents or ward councillors.
- Large alterations had already taken place in the building. The current proposal was mainly for business purposes,
- Suitable accommodation was needed for children who were vulnerable and there were many other opportunities and locations that this could be achieved instead of this site.
- No local residents had put forward any support for this application.
- The application was a continuous erosion of the Park Ward Conservation Area. There was a need to preserve the character of the area.
- The application would lead to an Increase in levels of anti-social behaviour. There would likely be an increase in the number of children misbehaving in the area, who were visiting children in the institution.
- Residents had genuine concerns around traffic and noise. The study undertaken by the applicants only showed traffic with one child currently in occupation at the residence.
- Communication between residents, the applicant and Ward Councillors had broken down.
- There were already a large number of care homes in that particular area, another one would not be beneficial.

- Lots of discussions had taken place with the lead director, who had stated that from his experience the application in question worked best on smaller scale, or if two smaller properties had been used to house the number of residents being proposed.
- There had been lots of complaints associated with House in Multiple Occupation (HMO), turning into a business and this should be taken into account.
- Residents were sympathetic to the need for care homes for vulnerable children, however this application was not in the children's best interests. Both Councillors and residents know of need for accommodation, however the site and size of this application is not acceptable.
- Ward Councillors were not made aware of this application until visiting the site.

Heather Mizen addressed the Committee and responded to questions from Members. In summary the key points highlighted included:

- Extensive experience of safeguarding children, however there had been 29 letters of objection to this particular application.
- Residents understood the need for professional care, but there were valid reasons for refusing this application.
- Poor communication and mis-representation had been shown by the applicants.
- The application would increase noise, traffic and anti-social behaviour in the local area.
- There had been significant problems with a similar home not far from application site.
- The stress of the application had an impact on the health of other local neighbours.
- The site was going to lead to a downward spiral of the local conservation area.
- This was a commercial business, of which there were a considerable number of businesses of this type and it had now reached capacity.
- Residents had been cut off from discussing this issue with the directors of Florine homes.
- The traffic study stated that there would be no more increased traffic, but this was done with only one child occupant, however if this increased to six then there would be further numbers of carers and staff visiting the residence.

Sue Hessom and Naidre addressed the Committee and responded to questions from Members. In summary the key points highlighted included:

- The applicants were known professionally to the care teams across Cambridgeshire and Peterborough.
- In planning regulations, it was necessary to give weight to the need of housing to meet the needs of children in care.
- There was a necessity for this form of housing in the local community.
- There were no further plans to expand the property above what was being proposed.
- Noise within the property was to be contained and no further light pollution would be emitted.

- A young person licence agreement would be in place stating that any misbehaviour was not to be tolerated.
- Operation practice would be monitored by the local authority including fire and police.
- Property already received a number of passes for policies laid out by the CQC and ofsted.
- Pledged to work with people in central park. The company had supported the dementia awards and had met local PCSO's and arranged for them to meet potential young people that might use the facility.
- There was a commitment to keeping communications open with local residents to hear any of their concerns.
- Homes such as this would help young people set up their lives and help integrate them into society.
- Assurances were given that staffing levels and care had to be consistent with all residents that they looked after.
- There would not be a significant increase in vehicle traffic, a number of social service workers were able to walk or car share to get to the residence.
- There were very strict guidelines for the children, there would be tough guidelines and bad behavior would be dealt with.

The Planning Committee and Environmental Committee debated the report and in summary, key points raised and responses to questions included:

- None of the internal works would require planning permission and this was not relevant to the planning decision.
- There would appear building regulation consent had been sought for the work that had been taken internally but it was stressed that this was not a planning matter.
- Highways confirmed that the traffic movement sheet was more a parking survey. Outside of the property there were enough spaces (5) for this development. In addition there was a garage that could be used. If this was a HMO there would be more vehicle movements than a care home.
- It was important to take into account the concerns of local residents, however this needed to be weighed up against planning needs and regulations.
- It was unusual to have three Ward Councillors objecting to the application and it was hard to ignore the strength of feeling shown.
- There was a lot of agreement
- With what residents had commented on however the need for this care in Peterborough was important to take into consideration.

At this point a suggestion was put forward on the possibility of granting the application on a temporary basis for two years to ascertain the suitability of the care home. This would allow Committee to see if any concerns were raised and how these were dealt with. There was further discussion about the possibility of a one year temporary grant, however there was argument that one year was not long enough.

RESOLVED:

The Planning Environment Protection Committee considered the report and representations. A motion was proposed and seconded to **GRANT** the application on

a temporary basis for 2 years. The Committee **RESOLVED** (8 in favour, 1 against) to **GRANT** the planning permission subject to relevant conditions delegated to officers.

REASON FOR THE DECISION:

Subject to the imposition of the attached conditions, the proposal is acceptable having been assessed in the light of all material considerations, including weighing against relevant policies of the development plan and specifically:

- the proposal would provide much-needed housing for up to 6no. children/young adults in a semi-independent manner to act as a transition between full-time care and independent adult living, in accordance with Policy CS8 of the Peterborough Core Strategy DPD (2011);
- adequate on-site parking is provided to meet the demands of the development and no unacceptable impact would arise in terms of the safety of the surrounding highway network, in accordance with Policies PP12 and PP13 of the Peterborough Planning Policies DPD (2012);
- the proposal would not result in an unacceptable degree of harm to the amenities of neighbouring occupants, in accordance with Policy CS16 of the Peterborough Core Strategy DPD (2011) and Policy PP3 of the Peterborough Planning Policies DPD (2012); and
- the proposed use would preserve the appearance of the Park Conservation Area, in accordance with Policy Cs17 of the Peterborough Core Strategy DPD (2011), Policy PP17 of the Peterborough Planning Policies DPD (2012) and paragraph 131 of the National Planning Policy Framework (2012).

67.2 17/01906/HHFUL - 11 ELMORE ROAD, NETHERTON, PETERBOROUGH, PE3 9PS

The Planning and Environmental Protection Committee received a report in relation to planning permission for the erection of a temporary timber dwelling and agricultural building.

The proposal was for the erection of a rural worker's (temporary) dwelling and agricultural building to enable the establishment of a free-range rabbit breeding and rearing enterprise.

Temporary dwelling – The dwelling would be two bed of dimensions 12.2m x 6m and would have a dual pitched roof to a height of x 3.6m (ridge) 2.8m (eave). The dwelling would be timber clad and located close to the entrance of Uffington Road.

Agricultural Building – The dimensions of the building would be 12m x 6.2m x 5m (ridge) 3.6m (eave) constructed in profiled steel sheeting.

The buildings would be in association with the development of a 300-doe, free-range rabbit production unit over the next three years with 100 does in Year 1; 200 does in Year 2; and 300 does in Year 3. The rabbit farm will occupy the east of the site with the remaining land used as a tree nursery.

The Development Management Manager introduced the report and update report.

Mr Harry Bressey, Parish Councillor, addressed the Committee and responded to questions from Members. In summary the key points highlighted included:

- On behalf of residents and parish council the erection of the temporary development was not welcomed by residents who felt strongly about the size and look of this application.
- The entrance was narrow and lead onto a very narrow road.
- There had been previous attempts to get planning permission but these had been rejected.
- This was another attempt to work the planning system and then sell the land on.
- This was a highly sensitive agricultural area. A rabbit farm with dwelling and building will be highly visible and inappropriate for the land.
- The application site was in close proximity of 80 houses with noise and smell that should not be allowed.
- It was stated that the applicant did not clean or look after his property, a large rubbish heap was noticeable by the entrance to the site.
- Traffic survey was undertaken during half term which would reduce the level of traffic considerably to that during term time.
- Hedge growth will grow and not be kept neat.
- A Rabbit farm could be a viable proposition, but this applicant would not do this and the same issues outlined in Granby would present themselves at this site.
- The buildings looked too on the slope of the land and were far to big for the site.

The Planning and Environmental Protection Committee debated the report and in summary, key points raised and responses to questions included:

- All issues had been factored in and the independent consultant had looked at the application stated that a comprehensive plan had been put in place.
- Two buildings had been proposed, the two bedroom dwelling needed to allow for that person manning the farm to have their family reside on the premises.
- The Storage building was large in scale, however this was to be used for hay bails and large equipment.
- Policy allowed temporary dwelling to be erected in order for a business to be setup, this was based on a sound business plan.
- The applicant wanted to employ one person on site but this could increase in the future. Increasing the number of rabbits would not need planning permission.
- Highways confirmed that a survey was carried out between 8-14 December 2017, the Sunday and Monday did have snow and ice, but theses had been discounted in terms of the road survey.
- It was Clarified that the hedges had been cut down for access as these were part of the conditions placed on the application. Condition was there to aid vehicles, If not complied with enforcement would need to be looked at.
- Storage house had not been proposed as a slaughterhouse. Not a planning system issue.
- There had been lots of local objections. The buildings on site would be extremely visible.

RESOLVED:

The Planning Environment Protection Committee considered the report and representations. A motion was proposed and seconded to **APPROVE** the application.

The Committee **RESOLVED** (5 for, 4 against, 1 abstained) to **GRANT** the planning permission subject to relevant conditions being delegated to officers.

REASONS FOR THE DECISION:

Subject to the imposition of the attached conditions, the proposal is acceptable having been assessed in the light of all material considerations, including weighing against relevant policies of the development plan and specifically:

- the proposal has been assessed against the criteria under Annex A to the former PPS7.
- the functional need for a temporary agricultural dwelling is accepted and the business has been planned on a sound financial basis.
- the scale and design of the proposed agricultural building and the temporary dwelling would be in keeping with the proposal agricultural use of the site.
- the proposal has demonstrated a safe and convenience access can be provided

The proposal therefore accords with policies, PP2, PP7, PP12 and PP13 of the Adopted Peterborough Planning Policies DPD, policy CS16, CS17 and CS20 of the Adopted Peterborough Core Strategy and section 6 of the National Planning Policy Framework.

67.3 17/01902/OUT - LAND ON THE WEST SIDE OF GUNTONS ROAD, NEWBOROUGH, PETERBOROUGH

The Planning and Environmental Protection Committee received a report in relation to outline planning permission for the erection of 5 self build detached bungalows (with refuge in the roof space) together with associated access, parking and amenity space with all matters reserved except for access

The Development Management Manager introduced the report and update report.

Councillor Simons, addressed the Committee and responded to questions from Members. In summary the key points highlighted included:

- The main reason for the application being refused seemed to rely on the flood risk of the area. Familiar with the Fens, the drainage was looked after 24/7 through the use of drains, pumping stations was unlikely to flood.
- The drainage systems in place would be able to empty large scale water areas in quick times.
- The proposed application had already been lifted higher off the ground than the original application.
- There were plenty of bungalows in the area. These were good for people of an elder age..
- There was a need for more bungalows in the area and in Peterborough in general.
- The issue was not about refuge, there would be people on hand to help remove items for the refuge storage in the roof.

John Dadge, addressed the Committee and responded to questions from Members. In summary the key points highlighted included:

- The main issue with the application was the potential flood risk.
- There was a need for this type of development with an ageing population.

- After speaking to all residents and to the Parish Council there were no objections raised..
- This development provided housing for elderly residents who wanted to trade their own homes for a bungalow.
- In terms of design the developments were flood resistant.
- The refuse being stored in the roof was a principle used for all these types of property.
- There were sustainable benefits, right accommodation for people at the right time, the opportunity for self-build which was not widely available.

The Planning and Environmental Protection Committee debated the report and in summary, key points raised and responses to questions included:

- The change in flood risk policy, was reflected in the history of the site.
- The Insurance industry had a sinking fund so each premium goes into this fund to reduce the premium of properties in flood risk areas.
- Tricky test to pass and no applications have yet to do this. Number of tests that would need to pass.
- The application had wider social community benefits and would enable further self-build applications.
- The Environment Agency set the flood risks and these were looked at rather than the build itself.
- There was a lot of sympathy for this development and the drainage board had not objected.
- There was ample drainage and no major issues with the location of the refuse storage facility.
- The experts had no major concerns and had deemed the application and site safe.
- The benefit to the community outweighed the exception test in this instance.
- There was concern about deviating from national policy and local policies and subjectively looking at data and would be adverse against going against officers recommendations.
- The applicant had taken all reasonable measures to alleviate flooding.

The Planning Environment Protection Committee considered the report and representations. A motion was proposed and seconded to **APPROVE** the application. The Committee **RESOLVED** (8 for, 2 against) to **GRANT** the planning permission subject to relevant conditions being delegated to officers.

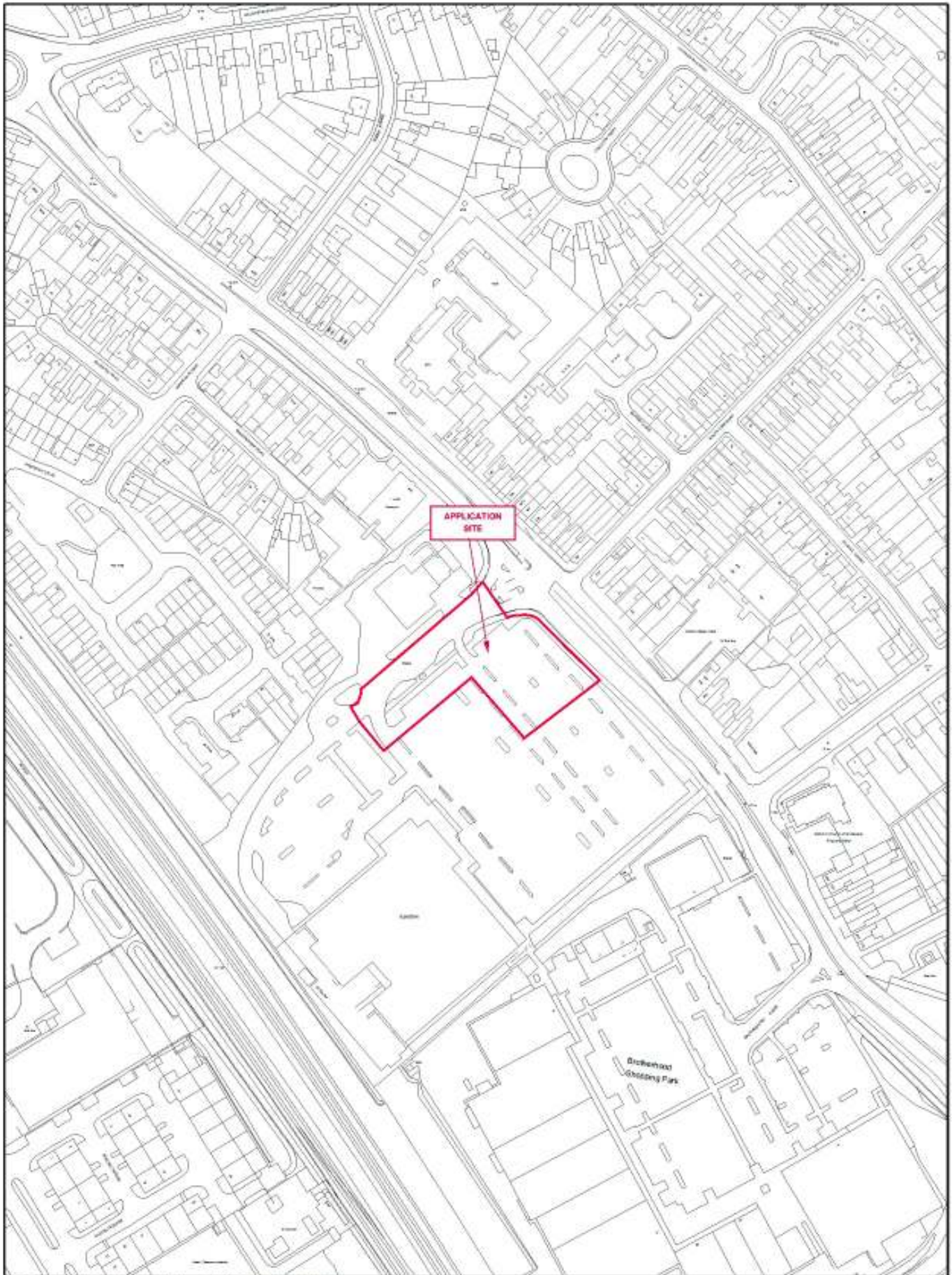
REASONS FOR THE DECISION:

The proposal is acceptable having been assessed in light of all material considerations, including weighing against relevant policies of the development plan and for the specific reasons given below.

The application site is located within Flood Zone 3 and is therefore at the highest risk of flooding. The proposed residential development, classed as 'more vulnerable' development, is inappropriate within this location. Whilst it has been demonstrated, by way of a Sequential Test, that there are no more sequentially preferable sites available for the proposed development within the settlement or other settlements within the 'Limited Growth Villages' the proposal in the view of the Committee would provide wider sustainability benefits to the community that would outweigh the risk of flooding as required by the Exception Test. Paragraph 102 of the NPPF is clear that

both elements of the test have to be passed for development to be permitted. The proposal was therefore not contrary to paragraphs 100, 101 and 102 of the National Planning Policy Framework (2012), Policy CS22 of the Peterborough Core Strategy DPD (2011) and Chapter 4 of the Peterborough Flood and Water Management SPD (2012).

Chairman
1.30pm – 5.13pm



LOCATION PLAN 17/02375/FUL
Morrisons, Lincoln Road Peterborough PE4 6WS

Scale NTS **Date** 15/3/2018 **Name** AA **Department** Planning Services



PETERBOROUGH



CITY COUNCIL

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Item No:1

Planning and EP Committee 3 April 2018

Application Ref: 17/02375/FUL

Proposal: Construction of two-storey restaurant with associated drive-thru, car parking, landscaping and associated works, two customer order displays and canopies

Site: Morrison's, Lincoln Road, Peterborough, PE4 6WS
Applicant: McDonald's Ltd and Wm Morrison Supermarkets
Agent: Planware Ltd

Referred by: **Cllr Nick Sandford**
Reason: **Concerns of noise, litter and anti-social behaviour.**

Site visit: 04.01.2018

Case officer: Mr M A Thomson
Telephone No. 01733 453478
E-Mail: matt.thomson@peterborough.gov.uk

Recommendation: **GRANT** subject to relevant conditions

1 Description of the site and surroundings and Summary of the proposal

Site Description

The application site comprises 0.175ha of existing car park serving Morrison's Superstore, situated 3.5 km from the centre of Peterborough on the south-west side of Lincoln Road. Situated to the immediate south-east is Brotherhood Retail Park, situated opposite is Lincoln Road Local Centre, and situated to the north is a petrol filling station with residential development beyond.

Proposal

The Applicant seeks planning permission for the erection of a two storey McDonald's restaurant (Class A3/A5), with a gross external floor area of 582 sqm with the ability to cater for 160 diners at any one time. The form of the building would comprise of a two storey and single storey element. The two storey element would have a floor area of 25m x 12.4m and standing at 7.2m to eaves and 8.7m to ridge. The single storey element would have a floor area of 4.9m x 8.7m and standing at 3.7m to ridge.

There are a number of external materials proposed, which include vertical and horizontal timber cladding, natural stone and aluminium cladding.

The scheme also proposes an associated drive-thru, servicing and car parking, landscaping, two customer order displays and canopies.

There are also three separate advertisement applications which are pending consideration for the site, which are listed below.

2 Planning History

Reference	Proposal	Decision	Date
17/02373/ADV	Various illuminated and non-illuminated site signage including 1 no. height restrictor, 9 no. freestanding signs, 3 no banner units, 1 no. side by side directional, 17 no. dot signs	Pending Consideration	
17/02374/ADV	Installation of 7 no internally illuminated fascia signs	Pending Consideration	
17/02377/ADV	Installation of an internally illuminated freestanding 12m shared totem sign	Pending Consideration	

3 Planning Policy

Decisions must be taken in accordance with the development plan policies below, unless material considerations indicate otherwise.

National Planning Policy Framework (2012)

Section 2 - Retail Development Outside Town Centres

A sequential test should be applied to applications (except in relation to applications for small scale rural offices or other development). Proposals which fail the sequential test or would have an adverse impact should be refused.

Section 7 - Good Design

Development should add to the overall quality of the area; establish a strong sense of place; optimise the site potential; create and sustain an appropriate mix of uses; support local facilities and transport networks; respond to local character and history while not discouraging appropriate innovation; create safe and accessible environments which are visually attractive as a result of good architecture and appropriate landscaping. Planning permission should be refused for development of poor design.

Peterborough Core Strategy DPD (2011)

CS01 - Settlement Hierarchy and the Countryside

The location/ scale of new development should accord with the settlement hierarchy. Development in the countryside will be permitted only where key criteria are met.

CS14 - Transport

Promotes a reduction in the need to travel, sustainable transport, the Council's UK Environment Capital aspirations and development which would improve the quality of environments for residents.

CS15 - Retail

Development should accord with the Retail Strategy which seeks to promote the City Centre and where appropriate the district and local centres. The loss of village shops will only be accepted subject to certain conditions being met.

CS16 - Urban Design and the Public Realm

Design should be of high quality, appropriate to the site and area, improve the public realm, address vulnerability to crime, be accessible to all users and not result in any unacceptable impact upon the amenities of neighbouring residents.

CS22 - Flood Risk

Development in Flood Zones 2 and 3 will only be permitted if specific criteria are met. Sustainable drainage systems should be used where appropriate.

Peterborough Planning Policies DPD (2012)

PP01 - Presumption in Favour of Sustainable Development

Applications which accord with policies in the Local Plan and other Development Plan Documents will be approved unless material considerations indicate otherwise. Where there are no relevant policies, the Council will grant permission unless material considerations indicate otherwise.

PP02 - Design Quality

Permission will only be granted for development which makes a positive contribution to the built and natural environment; does not have a detrimental effect on the character of the area; is sufficiently robust to withstand/adapt to climate change; and is designed for longevity.

PP03 - Impacts of New Development

Permission will not be granted for development which would result in an unacceptable loss of privacy, public and/or private green space or natural daylight; be overbearing or cause noise or other disturbance, odour or other pollution; fail to minimise opportunities for crime and disorder.

PP04 - Amenity Provision in New Residential Development

Proposals for new residential development should be designed and located to ensure that they provide for the needs of the future residents.

PP09 - Development for Retail and Leisure Uses

A sequential approach will be applied to retail and leisure development. Retail development outside Primary Shopping Areas or leisure development outside any centre will be refused unless the requirements of Policy CS15 of the Core Strategy have been satisfied or compliance with the sequential approach has been demonstrated.

PP12 - The Transport Implications of Development

Permission will only be granted if appropriate provision has been made for safe access by all user groups and there would not be any unacceptable impact on the transportation network including highway safety.

PP13 - Parking Standards

Permission will only be granted if appropriate parking provision for all modes of transport is made in accordance with standards.

PP16 - The Landscaping and Biodiversity Implications of Development

Permission will only be granted for development which makes provision for the retention of trees and natural features which contribute significantly to the local landscape or biodiversity.

PP20 - Development on Land affected by Contamination

Development must take into account the potential environmental impacts arising from the development itself and any former use of the site. If it cannot be established that the site can be safely developed with no significant future impacts on users or ground/surface waters, permission will be refused.

Peterborough Local Plan 2016 to 2036 (Proposed Submission Draft)

This document sets out the planning policies against which development will be assessed. It will bring together all the current Development Plan Documents into a single document. Consultation on this Proposed Submission version of the Local Plan will take place during January and February 2018 after which the responses will be reviewed ahead of submission to the Secretary of State.

This plan was approved Cabinet for consultation on 13 December 2017. It is, therefore, classified as an 'emerging plan'. Paragraph 216 of the National Planning states that decision makers may give weight to relevant policies in an emerging plan according to:-

- the stage of the Plan (the more advanced the plan, the more weight which can be given)

- the extent to which there are unresolved objections to the policies
- the degree of consistency between emerging policies and the framework.

The policies can be used alongside adopted policies in the decision making process, especially where the plan contains new policies. The amount of weight to be given to the emerging plan policies is a matter for the decision maker. At the final stage the weight to be given to the emerging plan is more substantial than at the earlier stages although the 'starting point' for decision making remains the adopted Local Plan.

4 Consultations/Representations

Police Architectural Liaison Officer

No Objection – I have spoken to the local Police team that covers this area and reviewed crimes and incidents in the car park that have been reported to the Police since January 2017.

I have viewed all relevant documents by the Applicant and am happy to support the application based on the layout and design to be implemented and the security measures to be put in place regarding CCTV and lighting. I am happy that cycle security has been considered with a position of the stand in view of the building. Theft of cycles have been recorded from this car park on several occasions so I welcome any initiatives to help reduce this crime.

There are some concerns regarding anti-social behaviour (ASB) in the car park involving boy racers and car cruise gatherings. There are calls from 4x local residents regarding this activity, 2 in November 2017 and 2 in February 2018. The Police are working with organisers of planned car cruises across the City to help with the planning and supervision of these events.

I would be willing to work with both Morrison's and McDonalds regarding improvements to the current car park (including the provision of CCTV) to make it less boy racer friendly if they consider this to be a concern to them. One of the options could be to upgrade the car park to Park Mark accreditation with the appropriate signage in place. The annual cost of this initiative could potentially be shared between both stores.

PCC Peterborough Highways Services

No Objection – When the application was originally received the Local Highway Authority (LHA) sought clarification of the servicing arrangement for deliveries, accident analysis, car parking demand and traffic modelling.

These matters have been discussed between the LHA and Highway Consultant, and it has been demonstrated that the proposed development would not unacceptably reduce the number of available on-site parking spaces to serve either the existing Morrison's Superstore, Petrol Filling Station or the proposed McDonald's restaurant.

The proposed service bay for the proposed restaurant would be adjacent to the site access road to Morrison's, therefore the LHA requires servicing to be carried out after the closure of the food store each day to ensure vehicles do not back up onto the adjoining Highway. In response to this the applicant and their consultant agreed to service the restaurant after 10:30pm on Monday to Saturdays, and 17:00pm on Sundays.

This solution is deemed acceptable in order to minimise the safety risks associated with the manoeuvring of the service vehicle and the driver's exiting the vehicle during the food store's trading periods.

If the restaurant was to be serviced by delivery vehicles whilst the food store or petrol filling station were open, the Local Highway Authority would object on highway safety grounds.

Environment Agency (20.12.18)

No objection

PCC Travel Choice (20.12.18)

No objection - The Travel Plan states that parking for 10 bicycles will be provided. These spaces are for staff and customers. I would expect the Travel Plan to comment that this provision will be reviewed and increased if required. I note that the provision will be Sheffield Stands, I would also expect that security measures have been reviewed, i.e. lighting, CCTV, monitoring and noted in the Plan - If staff and customers are confident that their bicycles can be safely left they will be more likely to cycle.

The attitudes to Travel Change survey results highlight that 38% of people stated that they didn't cycle because they did not have a bicycle. The Travel Plan should include measures to address this barrier, i.e. considerations for a cycle to work scheme, loan / pool bicycles. In addition 6% do not have the skills to cycle, the Travel Plan could address this by directing staff to Peterborough City Council's Travelchoice Team which can arrange free adult cycle training sessions.

I would also suggest that a range of hard copy sustainable travel information (bus timetables and routes, adult cycle training information, walking and cycling information etc.) is provided in the staff areas. Such resources can be obtained from Peterborough City Council's Travelchoice teams. In addition upon completion and full staff occupation of the restaurant a bespoke survey should be completed to obtain baseline data and postcode information of staff so that tailored initiatives can be implemented to encourage sustainable staff travel.

Local Residents/Interested Parties

Initial consultations: 119
Total number of responses: 6
Total number of objections: 6
Total number in support: 0

The application has been called into Planning Committee by Cllr Sanford, due to concerns of potential annoyance to local residents through noise and litter etc and potential for increasing existing problems with anti-social behaviour in the evenings at this location.

Six letters of representation have been received raising the following planning concerns;

- No need for the proposal, there are a number of McDonalds within the area;
- Increase in litter;
- Amenity of local residents;
- Increasing in traffic at an already busy part of the City;
- A loss of parking;
- Noise generated by night time deliveries at Morrison's;
- Drainage;
- Anti-social behaviour;
- Competition with existing businesses; and
- Increase in traffic and associated impact to climate change.

5 Assessment of the planning issues

The Principle of Development

The application site is not situated within the City Centre, or a District or Local Centre. Therefore the application is identified as an outside of centre location by Policy PP9. As such any such proposal should meet the requirements of Policy CS15 and demonstrate that it complies with the requirements of the sequential approach. This is consistent with Paragraph 24 of the National Planning Policy Framework (2012). As the proposed floor area is less than 2,500sqm an impact assessment is not required to be undertaken. In accordance with Paragraph 24 preference should be made to sites that are well connected to the town centre, and Applicants and Local Planning Authorities should demonstrate flexibility on issues such as format and scale. As such the

application is considered as follows;

- The Sequential Test
- Connectivity
- Flexibility

The Sequential Test

In accordance with Paragraph 24 of the NPPF (2012) and Policy CS15 the sequential assessment is used to determine whether there are any alternative sites within or on the edge of a City, District or Local Centre. A Sequential Test (Planware Ltd, Feb 2018) has been submitted in support of the application and has assessed following centre locations for their suitability, availability and viability.

- Peterborough City Centre and North Westgate Redevelopment Area
- Millfield District Centre
- Orton District Centre
- Werrington District Centre
- Bretton District Centre
- Hampton District Centre

A full break down of the Applicant's assessment can be found under Appendix A, however Officers are satisfied that each location has been fully considered, and it has been demonstrated that there are no sequentially preferable sites available to host the proposed development.

Connectivity

The application site is situated 3.5km from the City Centre, and is linked by Bourges Boulevard, a main arterial route linking the City Centre to the north. There is a north and south bus stop situated outside Brotherhood Retail Park, 200m south of the application site, as well as a bus stop within the Morrison's Car Park. As set out within the submitted Travel Plan the area is served by 12 regular buses per hour Monday to Saturday between the hours of 07:00 and 20:00, and a reduced service on Sundays. The Green Wheel cycle route (Route #12) also runs parallel to Bourges Boulevard, linking the City Centre and the application site, and beyond. Therefore whilst the application site is situated outside of a local centre, it is considered to be well connected in this instance.

Flexibility

It is understood that a McDonalds Drive Thru model requires a set amount of floor area with space around the building to facilitate a drive-thru, and 20,000 passing traffic movements per day. Within the supporting statement reference is made to a previous appeal decision from 2005 re Treloggan Road, Lane, Newquay (APP/Q0830/A/051182303), where it was concluded by the Inspector that 'it is difficult to envisage how a developer could be flexible in respect of the format of a drive through restaurant. Unlike a conventional restaurant ... a drive-through by definition requires vehicular access and circulation through or around the building'.

Officers recognise that the Drive Thru and restaurant elements could be considered separately, and that a restaurant in isolation could likely be accommodated within an existing Centre. However, relevant policy requires an assessment of the proposal as submitted and it has been demonstrated that a Drive-Thru could not be accommodated elsewhere within an existing centre. Further, it is reasonable to conclude that a McDonald's restaurant in isolation would not be forthcoming as an individual proposal.

Based on the submitted information Officers consider that the application site is suitably connected to the City Centre by a range of public transport means and that there are no sequentially preferable sites which are currently available that could accommodate the proposed development. As such the proposal is considered to accord with Policies CS15 of the Peterborough Core Strategy DPD (2011), PP9 of the Peterborough Policies DPD (2012) and Paragraph 24 of the NPPF (2012).

Crime

The Police Architectural Liaison Officer (PALO) has been consulted and raised no objection to this proposal.

There have been instances of cycle theft from the car park on several occasions, and the PALO notes that there have been a number of calls of car cruises and gatherings within the area, which is reflected in the letters of representation received. It is understood that the Police are working with organisers of planned car cruises across the City to help with planning and supervision of these events.

The PALO has sought details of lighting and CCTV be secured by planning condition, as well as any initiative, such as Park Mark accreditation, which would improve the security of the site. Therefore subject to securing these security measures the Police Architectural Liaison Officer has raised no objection as the proposal would not exacerbate existing issues of anti-social behaviour or crime within the area, and would therefore accord with Policies CS16 of the Peterborough Core Strategy DPD (2011).

Design and Layout

This part of Lincoln Road is characterised by two distinct forms of development. On the opposite side of Lincoln Road is traditional two storey semi-detached and terraced properties constructed out of red brick and dark tile. The majority of these properties are occupied as retail at ground floor with residential above, however there are also two stand out modern retail units, which are occupied by Farm Foods and a former golf shop. On the western side of Lincoln Road is Brotherhood Retail Park, Morrison's Superstore and a Petrol Filling Station, which are occupied by large scale modern retail units framing large areas of surface car parking. There is also a 4x storey block of flats situated further north.

The proposed McDonalds building would stand at two storey in height and would be set back from the road on a similar building line to the Morrison's Petrol Filling Station. Landscaping is proposed to be introduced between the internal access road and pedestrian footpath, however this would be low level to ensure that the restaurant maintained presence within the street scene. The proposed palette of materials is considered to be appropriate given the functional appearance of the proposed use and given its set back location. Whilst large, it would not be visually prominent or unacceptably detract from the character or appearance of the area given the presence of large scale units on this side of Lincoln Road.

The proposal would introduce an outdoor seating area, lamp columns and associated paraphernalia, however this is considered to be commensurate in size and scale to the proposed use of the site. A condition shall be appended stipulating that the proposed banners as shown on the submitted layout plan require separate advertisement consent; this is to ensure the frontage does not become cluttered or dominated by a single use. Subject to this condition the proposal would accord with Policies CS16 of the Peterborough Core Strategy DPD (2011) and PP2 of the Peterborough Policies DPD (2012).

Access and Parking

The Local Highway Authority (LHA) have raised no objections to the proposal in terms of loss of parking or highway safety to the local road network or access, however concerns have been raised with respect to the proposed servicing arrangement.

The proposed restaurant would be served by approximately 3 deliveries a week, which would take 15-45 minutes per delivery. Due to the proximity of the proposed loading bay at the front of the site, the LHA have raised concerns that this could cause confusion for visiting vehicle traffic that arrive behind the delivery vehicle due to the proximity of the left hand turn into the car park, and could potentially result in the backing up of traffic onto the adjoining highway network. It should be highlighted that there are no restrictions to vehicles servicing Morrison's or the adjacent Petrol Filling Station.

On this basis Officers have worked with the Agent and it has been agreed that deliveries to the restaurant would take place when Morrison's and the adjoining petrol filling station would not be open to visiting members of the public, i.e. 22:30 – 06:00 (Monday – Saturday) and 17:00 – 06:00 (Sunday). It is recognised that the unloading and loading of vehicles could generate noise and disturbance to neighbours, however there is no alternative servicing arrangement available, and the need to avoid a highway safety hazard is considered to outweigh any temporary noise disturbance generated by a single delivery vehicle.

The car park serving Morrison's Superstore has 606 spaces, 40 disabled spaces and 33 parent and child spaces. The Applicants undertook a parking survey between the hours of 16:00-19:00 on a Friday and 11:00-15:00 on a Saturday. The results demonstrated that on these two days there was a 49% and a 63% occupancy rate. As a result of the proposed development 64 of these spaces would be lost. Despite the loss of car parking and the introduction of a new planning use it is considered that there would be sufficient parking to serve the existing and proposed development.

Letters of representation have raised concerns of traffic, additional congestion and highway safety concerns, however the Local Highway Authority have raised no objection to the proposal.

A Travel Plan has been submitted in support of the proposed development, however the Council's Travel Choice Team have advised that hard copy sustainable travel information, which would include bus timetables and routes, adult cycle training information, walking and cycling information etc., be provided to staff on site, as well as incentives encouraging staff to cycle to work. These measures shall be secured by a compliance condition.

The proposal would provide satisfactory parking to serve the proposed and existing uses on site, and would not constitute a highway safety hazard. Therefore subject to conditions with respect to servicing arrangements, the provision of access and car and cycle parking as well as securing travel plan information the proposal would accord with Policies CS14 of the Peterborough Core Strategy DPD (2011) and PP12 and PP13 of the Peterborough Policies DPD (2012).

Neighbour Amenity

The proposed development seeks to operate 24 hours per day, 7 days per week. It is understood that Morrison's Food Store and Petrol Filling Station operates until 10PM and 10:30PM Monday to Saturday respectively, and further to reviewing adjoining hot food takeaway businesses these regularly operate until 11PM - 1AM.

The nearest residential properties are the flats situated to the north and first floor flats situated on the opposite side of Lincoln Road. Officers are conscious that the proposed use could result in additional levels of noise and disturbance from vehicles, staff and deliveries visiting the site or using the Drive-Thru facility. As such further to reviewing the proposal and its proximity to existing residential properties it is considered that 24hr opening could result in levels of noise and disturbance which could adversely affect these residents. Therefore taking a precautionary approach and considering the opening hours of other hot food takeaway businesses in the immediate area it is considered reasonable to allow the restaurant and Drive Thru to operate as follows;

Monday - 06:00-01:00
Tuesday - 06:00-01:00
Wednesday - 06:00-01:00
Thursday - 06:00-02:00
Friday - 06:00-02:00
Saturday - 06:00-02:00
Sunday - 06:00-00:00

This would allow the Local Planning Authority opportunity to review the proposal and to address any issues that may arise as a result of the proposed activity taking place in this location.

Officers recognise that deliveries would take place between the hours of 22:30-06:00, however deliveries are understood to be no more than 3x a week and take between 15-45 minutes per delivery, therefore any disturbance would be limited. Given the restricted servicing arrangement, the limited drop off periods and distance to neighbours this arrangement is accepted in this instance.

Details of mechanical ventilation and extraction for the restaurant have not been submitted as part of this application, therefore in the interest of protecting residential amenity these details shall be secured by planning condition.

Subject to restricting the hours of use and securing details of mechanical ventilation by way of planning conditions the proposal would not result in an unacceptably adverse impact on the amenity of neighbouring residents, in accordance with Policies CS16 of the Peterborough Core Strategy DPD (2011) and PP3 of the Peterborough Policies DPD (2012).

Other Matters

Saturation of fast food restaurants - Letters of representation has been received questioning the need for the proposal, given that there are 7x other McDonald's restaurants in and around the City, the majority of which have Drive Thru facilities. Officers are aware of this, however there is no policy which allows the consideration of saturation. This application has been considered on its individual merit.

Competition with local businesses - This is not a material planning consideration and cannot be considered.

Litter - The application site would be provided with a number of waste refuse bins within the application site, and it was noted that there are a number of bins situated within the adjacent public realm.

Drainage - The development would be required to accord with Building Regulations.

6 Conclusions

Subject to the imposition of the attached conditions, the proposal is acceptable having been assessed in the light of all material considerations, including weighing against relevant policies of the development plan and specifically:

- The proposal has demonstrated that it would be suitably connected to the City Centre by a range of public transport means and that there are no sequentially preferable sites which are currently available that could accommodate the proposed development. As such the proposal is considered to accord with Policies CS15 of the Peterborough Core Strategy DPD (2011), PP9 of the Peterborough Policies DPD (2012) and Paragraph 24 of the NPPF (2012);
- The proposed development would not have an unacceptably harmful impact on the character or appearance of the area, and would therefore accord with Policies CS16 of the Peterborough Core Strategy DPD (2011), Policies PP2 of the Peterborough Policies DPD (2012);
- The proposed development would not unacceptably harm the amenity of adjoining neighbours, and would not exacerbate issues of crime and anti-social behaviour within the area, and would therefore accord with Policies CS16 of the Peterborough Core Strategy DPD (2011) and PP3 of the Peterborough Policies DPD (2012); and
- The proposal would not result in a highway safety hazard and sufficient car parking can be provided to serve the existing and proposed development, thereby according with Policies CS14 of the Peterborough Core Strategy DPD (2011) and PP12 and PP13 of the Peterborough Policies DPD (2012).

7 Recommendation

The Director of Growth and Regeneration recommends that Planning Permission is **GRANTED** subject to the following conditions:

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

Reason: In accordance with Section 91 of the Town and Country Planning Act 1990 (as amended).

- C 2 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reason: To ensure that any unforeseen contamination encountered during development is dealt with in an appropriate manner in accordance with Policy PP20 of the Peterborough Policies DPD (2012) and paragraph 109 and 121 of the NPPF (2012).

- C 3 The car parking spaces as shown on drawing 6793-AEW_8386_00 04B (Proposed Site Plan) shall be provided on site prior to the occupation of the restaurant hereby approved, and shall thereafter be maintained as such in perpetuity.

Reason: In the interests of Highway safety, in accordance with Policies PP12 and PP13 of the Peterborough Policies DPD (2012).

- C 4 The cycle parking shall be implemented in accordance with Drawing 6793-AEW_8386_00 04B (Proposed Site Plan) and thereafter retained for the purposes of the parking of the bicycles in conjunction with the occupation of the restaurant hereby approved.

Reason: In the interests of providing satisfactory cycle parking and to encourage travel by sustainable modes of transports in accordance with Policy CS14 of the Peterborough Core Strategy DPD (2011) and PP13 of the Peterborough Policies DPD (2012).

- C 5 Prior to the commencement of any development a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include (but not exclusively the following):-

- o Hours of working;
- o Parking, Turning and Loading/Unloading areas for all construction/contractors vehicles;
- o Site compounds/storage areas;
- o Wheel cleansing facility details;

The construction shall thereafter shall take place in accordance with the approved details.

Reason: In the interests of the amenity of the area and highway safety in accordance with Policy CS16 of the adopted Peterborough Core Strategy DPD (2011) and PP12 of the Peterborough Policies DPD (2012). This is a pre-commencement condition as these details need to be agreed in writing before development commences.

- C 6 Prior to the occupation of the restaurant hereby approved details of all mechanical ventilation and extraction equipment shall be submitted to and approved in writing by the Local Planning Authority. The information to be submitted shall include manufacturer detailing. Thereafter all equipment shall be implemented in accordance with the approved details and retained and maintained in perpetuity.

Reason: In the interest of protecting the amenity of neighbouring residents, in accordance with Policies CS16 of the Peterborough Core Strategy DPD (2011) and PP3 of the Peterborough Policies DPD (2012).

C 7 The restaurant and drive thru hereby approved shall only operate between the hours listed below, and at no other time.

- o Monday - 06:00-01:00
- o Tuesday - 06:00-01:00
- o Wednesday - 06:00-01:00
- o Thursday - 06:00-02:00
- o Friday - 06:00-02:00
- o Saturday - 06:00-02:00
- o Sunday - 06:00-00:00

Reason: In the interest of protecting the amenity of neighbouring occupiers in accordance with Policy CS16 of the Peterborough Core Strategy DPD (2011) and PP3 of the Peterborough Policies DPD (2012).

C 8 Deliveries shall not take place to the development site hereby approved other than between the hours of 22:30 - 06:00 (Monday - Saturday) and 17:00 - 06:00 (Sunday) unless otherwise agreed in writing with the local planning authority.

Reason: In the interest of preserving the free flow of traffic from the adjoining highway network, in accordance with Policy PP12 of the Peterborough Policies DPD (2012).

C 9 Prior to the occupation of the development hereby approved details of security measures shall be submitted to and approved in writing to the Local Planning Authority. These security measures shall include details of an external CCTV system and lighting to be installed on site. Thereafter the approved CCTV system and lighting shall be implemented in accordance with the approved details and retained and maintained in perpetuity.

Reason: In the interest of crime prevention and anti-social behaviour, in accordance with Policy CS16 of the Peterborough Core Strategy DPD (2011).

C10 The development hereby approved shall be implemented in accordance with the submitted Travel Plan (ADL/CC/3384/24A, October 2017). The Travel Plan shall be updated to include measures to improve cycling to the site, as well as provide hard copy sustainable travel information (bus timetables and routes, adult cycle training information, walking and cycling information etc), which shall be made available to staff on site.

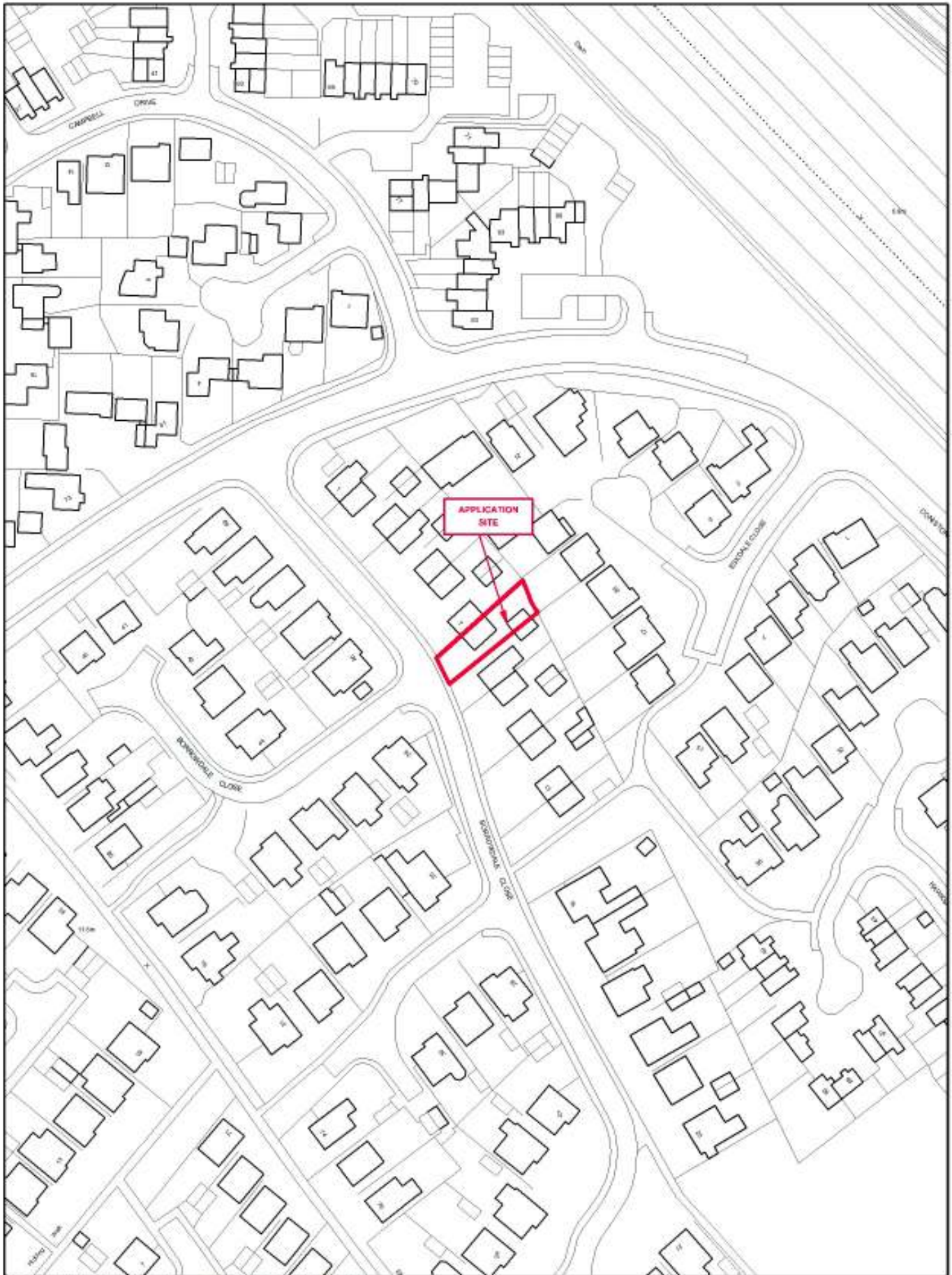
Reason: To encourage the use of sustainable modes of transport, in accordance with Policies CS14 of the Peterborough Core Strategy DPD (2011) and PP12 of the Peterborough Policies DPD (2012).

C11 The development hereby permitted shall be carried out in accordance with the following approved plans and reports:

- 6793-AEW_8386_00 01 – Location Plan
- 6793-AEW_8386_00 02B – Block Plan
- 6793-AEW_8386_00 03 – Existing Site plan
- 6793-AEW_8386_00 04B – Proposed Site Plan
- 6793-AEW_8386_00 05 – Proposed Elevations
- 6793-AEW_8386_00 06 – Proposed Internal Layout
- 6793-AEW_8386_00 15B – Landscape Plan
- COD Canopy

- Fencing and Lighting Details

Reason: For the avoidance of doubt and in the interest of proper planning.



LOCATION PLAN 18/00092/HHFUL

8 Borrowdale Close, Gunthorpe Peterborough PE4 7YA

Scale NTS Date 15/3/2018 Name AA Department Planning Services



PETERBOROUGH



CITY COUNCIL

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PCC GIS

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Item No: 2

Planning and EP Committee 3 April 2018

Application Ref: 18/00092/HHFUL

Proposal: Proposed Single Storey Rear Extension

Site: 8 Borrowdale Close, Gunthorpe, Peterborough, PE4 7YA
Applicant: Mrs Terri Kitoto Luhata

Agent: Mr Sajan Varghese
BRETWAY Designs

Referred by: Councillor Davidson

Reasons: The proposed extension will be overbearing to surrounding neighbours as a result of its height. In addition, the proposed extension would impact upon the party wall between No. 7 Borrowdale and No. 8 Borrowdale Close.

Site visit: 06.02.2018

Case officer: Mr Jack Gandy
Telephone No. 01733 452595
E-Mail: jack.gandy@peterborough.gov.uk

Recommendation: **GRANT** subject to relevant conditions.

1 Description of the site and surroundings and Summary of the proposal

Sites and Surroundings

The application site comprises a semi-detached dwelling located within a residential area. The property is built in dapple brick and is set approximately 7.8 metres back from the highway. The site's garage is detached from the dwellinghouse and is set further to the rear of the site, with access from Borrowdale Close. Properties within Borrowdale are predominantly in the form of detached bungalows, however, upon entry into Borrowdale Close from Coniston Road, Nos. 1 to No. 14 are semi-detached two storey dwellings.

Proposal

Permission is sought for the construction of a single storey extension to the rear of the property.

The proposal would project 4.4 metres in depth and would measure 5 metres in width. The extension would include a flat roof set 2.9 metres high from ground level. In addition to the flat roof, a pitched roof light would be fitted on top of the flat roof, which would measure 3.6 metres high from ground level.

Two ground floor windows are also proposed to the side elevation of the dwellinghouse. One window would be fitted to the original house and would serve a dining room. The second window would be fitted to the side elevation of the proposed extension serving the kitchen.

2 Planning History

Reference	Proposal	Decision	Date
17/01615/HHFUL	Proposed two storey rear extension, front porch and additional windows on side elevation	Refused	01/12/2017
P0732/76	Residential development of 14 houses, 11 chalets and 15 bungalows (approval of reserved matters)	Permitted	02/11/1976

3 Planning Policy

Decisions must be taken in accordance with the development plan policies below, unless material considerations indicate otherwise.

Peterborough Core Strategy DPD (2011)

CS16 - Urban Design and the Public Realm

Design should be of high quality, appropriate to the site and area, improve the public realm, address vulnerability to crime, be accessible to all users and not result in any unacceptable impact upon the amenities of neighbouring residents.

Peterborough Planning Policies DPD (2012)

PP02 - Design Quality

Permission will only be granted for development which makes a positive contribution to the built and natural environment; does not have a detrimental effect on the character of the area; is sufficiently robust to withstand/adapt to climate change; and is designed for longevity.

PP03 - Impacts of New Development

Permission will not be granted for development which would result in an unacceptable loss of privacy, public and/or private green space or natural daylight; be overbearing or cause noise or other disturbance, odour or other pollution; fail to minimise opportunities for crime and disorder.

PP13 - Parking Standards

Permission will only be granted if appropriate parking provision for all modes of transport is made in accordance with standards.

Peterborough Local Plan 2016 to 2036 (Proposed Submission Draft)

This document sets out the planning policies against which development will be assessed. It will bring together all the current Development Plan Documents into a single document. Consultation on this Proposed Submission version of the Local Plan will take place during January and February 2018 after which the responses will be reviewed ahead of submission to the Secretary of State.

This plan was approved Cabinet for consultation on 13 December 2017. It is, therefore, classified as an 'emerging plan'. Paragraph 216 of the National Planning states that decision makers may give weight to relevant policies in an emerging plan according to:-

- the stage of the Plan (the more advanced the plan, the more weight which can be given)
- the extent to which there are unresolved objections to the policies
- the degree of consistency between emerging policies and the framework.

The policies can be used alongside adopted policies in the decision making progress, especially where the plan contains new policies. The amount of weight to be given to the emerging plan policies is a matter for the decision maker. At the final stage the weight to be given to the emerging plan is more substantial than at the earlier stages although the 'starting point' for decision making remains the adopted Local Plan.

4 Consultations/Representations

Werrington Neighbourhood Council

No comments received

Local Residents/Interested Parties

Initial consultations: 7

Total number of responses: 8

Total number of objections: 8

Total number in support: 0

Councillor Davidson

Objection - For the following reason:-

The proposed extension will be overbearing as a result of its height. In addition, the proposed extension would impact upon the party wall between No. 7 Borrowdale and No. 8 Borrowdale Close.

Summary of comments received from the both rounds of consultation.

Eight letters of objection were received from surrounding neighbours and nearby residents raising the following issues:-

- The proposal is too high.
- With the rooflight, the proposal would be unacceptably intrusive to neighbour privacy, natural sunlight and view when enjoying their rear garden.
- The length of the extension would obscure neighbouring views of blue sky and sunlight due to the current, staggered layout of dwellings along Borrowdale Close would obscure the early morning sunlight. This would be lost if the extension were to be approved.
- Noise and extra traffic from building the extension would have implications on all neighbours including those that work nightshifts.
- No. 8 Borrowdale Close is on a higher level than our neighbouring property. As such, the proposal would result in reduced light levels.
- The proposal would result in an unacceptable loss of privacy due to its size and closeness to the boundary of Eskdale Close properties.
- The single storey extension would be greater in height than the garage and would appear imposing and out of context.
- Extension is not in keeping with single storey extension at No. 9 Borrowdale Close. It would be of a greater height, size and design.
- The extension, with its roof light, would not match to the aesthetics with nearby dwellings.
- The proposal would shadow over our property, causing loss of light along with loss of sunlight (affecting the right to light to this neighbour).
- The proposal would be completely out of character to the surrounding area. No one within Borrowdale Close has extended to this degree.
- The rear garden to No. 8 Borrowdale Close would be overdeveloped.
- The proposal is close to the neighbour's boundary, where it would significantly impact and invade upon their privacy.
- The proposal is out of keeping in size and shape with other properties along this established estate.
- The proposal could set a precedent for similar applications, which would destroy the green spaces behind Eskdale Close and Borrowdale Close.
- It is considered that the applicant is trying to work towards a two storey extension.
- The height of the proposal would be detrimental to No. 7 Borrowdale Close, as well as bring light and noise pollution to residents at the rear. The rooflight would presumably cast light and project

noise from the extension to neighbouring properties.

- No 6 Borrowdale Close received no notification of the planning application.
- The plans submitted lack full measurements and dimensions.
- There is a request for deeper foundations, which would enable the applicant to build a two storey extension.
- The works would bring noise pollution and congestion to the surrounding area.
- There is a fear that this dwelling will be used as a 'multi-occupancy rental property'.
- The rooflight is an eyesore. There are no other structures or extensions with lanterns to any properties to the surrounding area.
- The proposal would affect the neighbouring kitchen/diner and back garden due to the overbearing and overshadowing impact from the proposal.
- A reduction in light levels would also have an adverse effect upon the neighbour's living space and garden.
- There would be no natural daylight due to this dominant extension.
- A loss in total privacy due to the closeness and height of the extension.
- The aesthetics of the extension would not be in keeping with any of the properties surrounding it and would look out of place. It is simply very out of character and an eye sore to those who would have to view it day in day out.
- The neighbour would be exiting their back door to a dominant brick wall to their boundary, which would be oppressive and dark.
- The neighbour will object to the Planning Inspectorate if this extension is accepted by planners or the Planning Committee.
- The neighbour states that following refusal of the two storey extension (planning application ref: 17/01615/HHFUL), the applicant and the planners would 'come to their senses' as to all the reasons for all the objections surrounding neighbours have put forward. It is very disappointing to undergo all this stress and anxiety this causes. After all, it's not just about "bricks and mortar" but the lives of people and their living space that is so important.

5 Assessment of the planning issues

The main considerations are:

- Design and impact to the character and appearance of the site and the surrounding area
- Neighbour amenity
- Parking provision

Under the original plans submitted, the proposed extension measured 3.2 metres in height at flat roof level and 3.7 metres in height to the rooflight. However, Officers considered that the design of the extension could be improved with a reduced roof height for the benefits to character, appearance and to surrounding neighbours. The agent submitted revised plans and these have been considered as such.

a) Design and impact to the character and appearance of the site and the surrounding area

It is considered that the proposed extension would not appear overly out of proportion and scale with the existing dwellinghouse. Whilst the proposed extension would exceed the height of the garage by approximately 0.4 metres, it is considered that the proposal would remain a subservient addition to the dwellinghouse and would not be of detriment to the site's character. A respectably-sized garden would remain to the rear of No. 8 Borrowdale Close.

The facing brick to be used would match to the existing property, allowing a consistent visual appearance to the walls. Unlike the existing house, whilst a tiled, pitched roof is not proposed, it is not considered that an extension with a flat roof would be out of keeping with the site or the surrounding area. The rooflight would be serve subordinately to the proposed extension.

With the proposal to be located to the rear of the property, views from the surrounding public highways would be limited. The main views of the proposal would be from the rear windows of neighbouring properties. However, the proposal would not unacceptably impact upon surrounding street character and visual appearance as a result of its proposed position.

In relation to the surrounding area, it is noted that there are few single storey extensions to the semi-detached dwellings to Borrowdale Close, but they are not uncommon. The neighbour at No. 9 Borrowdale Close has a flat roof single extension that measures 3.5 metres in depth. Conservatories to No. 1 and No. 4 Borrowdale Close have also been constructed to their rear elevations. It is not considered that the proposed single storey extension would result in an unacceptable level of harm to the character and appearance of the site and surrounding area.

The two ground floor windows proposed to the side elevation, to serve a kitchen and dining room. The proposed design of these windows are considered to be in keeping with the existing windows to the dwellinghouse. In light of all matters above, the proposal is considered to be in accordance with Policy CS16 of the Peterborough Core Strategy DPD (2011) and Policy PP2 of the Peterborough Planning Policies DPD (2012).

b) Neighbour amenity

i) No. 7 Borrowdale Close

This property adjoins to the applicant dwelling and has not been extended previously. To the rear of this property is a kitchen/diner at ground floor level, with bathroom and a bedroom at first floor level. The rear of these properties are separated by a close board fence boundary that measures approximately 2 metres high. Given the single storey height of proposal, which would be no higher than the lowest parts of the windows serving the neighbouring bathroom and bedroom, it is not considered that these rooms would be unacceptably impacted upon by the proposed development via means of overbearing or overshadowing.

The ground floor is served by a kitchen door that is nearest to the shared boundary, alongside another window to the ground floor rear elevation. With the two metre high fence boundary which would screen the lower half of the proposal, there would be a 0.9 metre difference between the flat roof height and this boundary fence, which this part of the extension would be visible from No. 7 Borrowdale Close. However, Officers do not consider that the additional 0.9 metres that would be above the fence line would contribute to an unacceptable level of prominence to this neighbour.

Whilst the roof height, with the rooflight, would measure 3.6 metres above ground level and the flat roof would measure 2.9 metres high from ground level, it is not considered that the level of harm to be caused would be to an unacceptable level, given that the main window is set back from the boundary alongside the 4.4 metre projection of the proposal. In addition, with the primary kitchen window set back, acceptable levels of light would be able to enter the kitchen because the proposal would not exceed the 45 degree rule, measured from the proposed roof line to the centre of this window.

No windows are proposed to the north-west facing side elevation of the proposed extension. The position and height of the roof lantern would not allow clear views towards the neighbouring site or to its windows. As such, taking the above matters into account, it is not considered that the proposal would unacceptably impact upon the privacy, light levels and amenity of No. 7 Borrowdale Close.

ii) No. 9 Borrowdale Close

No. 9 Borrowdale Close is the adjacent property to the south east of the site. The application site and No. 9 Borrowdale Close are separated via their driveways and their adjoining garages. Therefore the separation distance between the two properties is approximately 5 metres.

Officers consider that the proposal would not be unacceptably prominent or overbearing to this neighbour given the separation distance between the two dwellings. The flat roof and roof light would be visible to this neighbour, as a result of the proposed height of the extension to exceed the garages, but given the existing garages and their height and location between the residential sites, its impact would be limited. In addition, the proposal is north of No. 9 Borrowdale Close. As such, the natural sunlight this neighbour receives would not be adversely affected.

The proposed ground floor windows would look out across the driveway of the property and the driveway and side gable elevation of No. 9 Borrowdale Close. There is one high level window to the side elevation of No. 9 Borrowdale Close in its single storey rear extension. As the neighbouring window is high level, the proposed ground floor windows on the application site will not result in any harmful overlooking to this window. The high level window is also a secondary window, with the principle windows to the rear elevation of this neighbouring extension. It is not considered that the proposal would result in significant and adverse harm to this neighbouring window.

Planning Committee Members should take note that permitted development rights allow the installation of windows at ground floor level, to an existing property, without the benefit of planning permission.

On the basis of the above, it is not considered that the proposal would unacceptably harm the amenity of the neighbours at No. 9 Borrowdale Close.

iii) Properties situated along Eskdale Close

The rear of the application site abuts to property boundaries relating to two-storey dwellings along Eskdale Close. This includes No. 16, 18 and 20 Eskdale Close.

The separation distance between the existing rear elevation of the application site and No. 18 Eskdale Close is approximately 24 metres. This distance is similar for No. 16 and No. 20 Eskdale Close. With the proposed single storey extension to measure 4.4 metres in depth, there will still be a separation distance of approximately 19 metres. As such, it is not considered that the proposal would cause unacceptable overbearing to these neighbours. In addition, given the single storey design proposed, along with the orientation of these properties to the north east and the separation distance, the proposal would not cause unacceptably levels of overshadowing to these dwellings.

Bi-fold doors are proposed to the rear of the extension, with one window either side of this door. The proposal would result in the property's windows and doors to be approximately 4.4 metres closer to the Eskdale Close dwellings. However, given the 19 metre separation distance, along the existing fence boundary between the application site and No. 18 Eskdale Close, it is not considered that the proposed rear windows, bi-fold doors and rooflight would unacceptably impact upon the privacy of the dwellings to Eskdale Close.

iv) No. 6 Borrowdale Close

The proposed single storey extension would be approximately 7.6 metres from the boundary to No. 6 Borrowdale Close. With respect to the objection submitted, the separation distance is considered to be sufficient to avoid unacceptable impacts of overbearing, overshadowing and loss of privacy from the proposed development to this dwellinghouse.

In light of the impacts to surrounding neighbours, it is not considered that the proposed extension would result in unacceptable harm to the amenity of surrounding residents. The proposal is considered to be in accordance with Policy CS16 of the Peterborough Core Strategy DPD (2011) and Policy PP3 of the Peterborough Planning Policies DPD (2012).

c) Parking provision

The existing property currently has a long driveway which measures approximately 20 metres in length. As a result of the length of the driveway, two car parking spaces can be comfortably accommodated on site, in accordance with our car parking standards.

The application proposes no change to the number of bedrooms to the property. As such, there is not requirement to further increase the parking provision on-site. As such, the proposal would be in accordance with Policy PP13 of the Peterborough Planning Policies DPD (2012).

Other matters

i) Permitted Development

To the rear of semi-detached dwellings, single storey rear extension can be constructed without the benefit of planning permission under Class A of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended). Such extensions could measure up to 3 metres in depth, with eaves no more than 3 metres high and the highest part of the extension be no more than 4 metres from ground level.

Given the above details proposed and what can be built under permitted development, it is not considered by Officers that the additional 1.4 metre depth of the proposal, ahead of what could be achieved under permitted development, is significantly harmful.

ii) Matters raised in Councillor and neighbour representations that have not been discussed above.

- Party wall infringement and impact:- The proposal would abut to the boundary line between the No. 7 and No. 8 Borrowdale Close. However, the proposed development would only be constructed on the land relating to No. 8 Borrowdale Close. In addition, matters of party walls are a civil matter between the owners of both properties, which the Local Planning Authority can have no involvement with.

- Notification to No. 6 Borrowdale:- This property does not share a boundary to No. 8 Borrowdale Close. As such, no notification letter was sent to this address. Following their objection, and with revised plans submitted, this neighbour was consulted on the second set of plans.

- The use of the dwelling as a House of Multiple Occupancy (HMO): No evidence has been provided to state this will occur. However, under permitted development, any residential property under use class C3 could be converted to a small scale HMO (use class C4) without the requirement of planning permission.

- Lack of measurements to elevation plans:- The elevation plans do not include measurements. However, they do include a scale bar and are drawn to scale. As a result, they meet validation requirements and can be considered.

- Future development / First floor extension potential:- Only the development proposed under this application can be considered and not any potential future development on site.

- The setting of a precedent:- Each case is considered on its own merits and no two sites are ever the same.

- Building works operations, including noise and disruption:- This is not a material planning consideration.

- Depth of foundations:- Foundations are not a material planning consideration.

- Loss of view from neighbouring sites:- This is not a material planning consideration that can be taken into consideration in the determination of a planning application.

- Planning Inspectorate - The Planning Inspectorate only becomes available to applicants or planning agents if their applications are refused. When approved, there are no rights of appeal to third parties under the planning system. Outside of the planning system, such parties would need to go through a process called Judicial Review. Details of this can be found on the application's Decision Notice, which is available to view online.

- Proposal following refusal of previous planning application (ref: 17/01615/HHFUL):- The Local Planning Authority has a legal duty to consider planning applications submitted to them, regardless of planning history. This planning application has been assessed as such with an Officer recommendation made.

6 Conclusions

Subject to the imposition of the attached conditions, the proposal is acceptable having been assessed in the light of all material considerations, including weighing against relevant policies of the development plan and specifically:

- The character and appearance of the application and the surrounding area would not be unacceptably affected by the proposed development, in accordance with Policy CS16 of the Peterborough Core Strategy DPD (2011) and Policy PP2 of the Peterborough Planning Policies DPD (2012).
- The proposal would not significantly harm the amenity of surrounding residents, in accordance with Policy CS16 of the Peterborough Core Strategy DPD (2011) and Policy PP2 of the Peterborough Planning Policies DPD (2012).
- On-site parking provision would not be unacceptably affected by the proposed development, in accordance with Policy PP13 of the Peterborough Planning Policies DPD (2012).

7 Recommendation

The case officer recommends that Planning Permission is **GRANTED** subject to the following conditions:

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

Reason: In accordance with Section 91 of the Town and Country Planning Act 1990 (as amended).

- C 2 The development hereby permitted shall be carried out in accordance with the following plans:

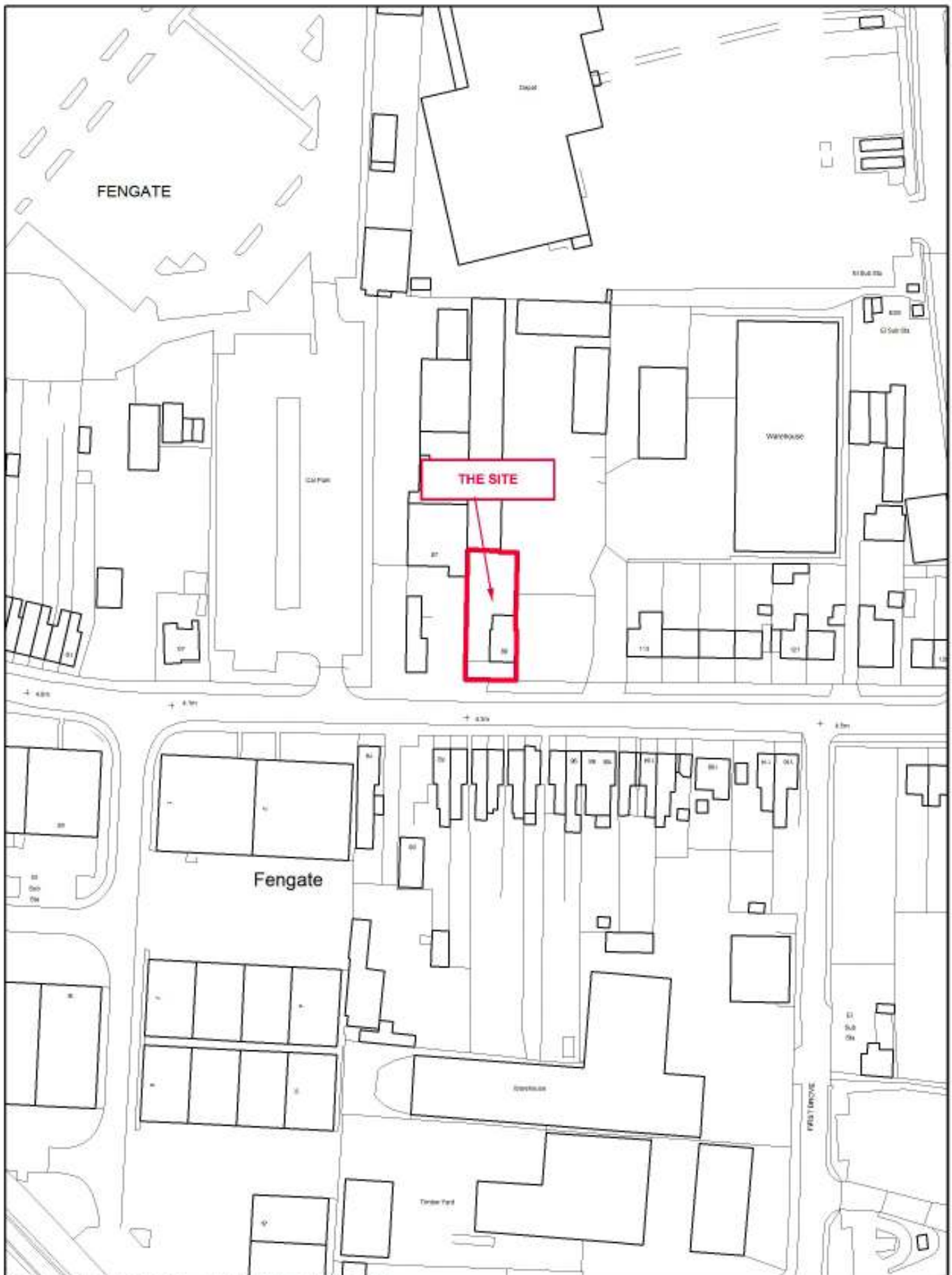
- Existing Floor Plans (Drawing number PP/18/0216-01)
- Existing Elevations (Drawing number PP/18/0216-02)
- Existing and Proposed Block Plans (Drawing number PP/18/0216-03)
- Location Plan (Drawing number 17/0216-04)
- Proposed Ground Floor Plan (Drawing number PP/18/0216-05)
- Proposed First Floor Plan (Drawing number PP/18/0216-06)
- Proposed Elevations Plan (Drawing number PP/18/0216-07 Revision A)
- Proposed Sections Plan (Drawing number PP/18/0216-08 Revision A)

Reason: For the avoidance of doubt and in the interests of proper planning.

C 3 The materials to be used in the construction of the external surfaces of the single storey extension hereby permitted shall match those used in the existing building.

Reason: For the Local Planning Authority to ensure a satisfactory external appearance, in accordance with Policy CS16 of the Peterborough Core Strategy DPD (2011) and Policy PP2 of the Peterborough Planning Policies DPD (2012).

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LOCATION PLAN 17/00157/ENFCOU

89 Fengate Peterborough PE1 5BA

Scale NTS **Date** 16/3/2018 **Name** AA **Department** Planning Services



PETERBOROUGH



CITY COUNCIL

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Item No: 3

Planning and EP Committee 3 April 2018

Planning Enforcement Notice – 89 Fengate, unauthorised residential use

Referred by: Director of Growth & Regeneration

Reason: To ensure that Committee supports the delegated decision to serve an enforcement notice

Case Officer: Nick Harding

Telephone: 01733 45441

Email: Nicholas.harding@peterborough.gov.uk

Recommendation: That the enforcement notice is not withdrawn

1. Background

The site is currently used by the occupier as a car sales lot (the occupier operated another car related business from a nearby building off site). There is a property on the site that was in the past used for residential occupation but most recently the authorised use was as an office associated with a car hire operation. The operator of the car sales business has been residing at the property for a number of years. As given in the Appendix 1 (delegated officer report) there has been a series of applications that have sought to enable the residential occupation of the property. All of the applications have been refused with a key reason being that the occupiers would not enjoy a satisfactory degree of residential amenity. There has also been an appeal against the refusal of one of these applications and the Inspector agreed with the Council that residential use was not appropriate (see Appendix 2 for a copy of the Inspector's report).

Following the most recent refusal of planning permission for residential use of the site (as part of a mixed use) officers served an enforcement notice to prevent the residential occupation becoming lawful through the passage of time. The enforcement notice has been appealed but not yet determined. In addition the refusal of planning permission has been appealed but is not yet determined. There is scope for the notice for the notice to be withdrawn if Committee decides that the use is acceptable. In such a situation the Planning Inspectorate would be advised of the council's decision in relation to the enforcement appeal and appeal against the refusal; of planning permission.

2. Human Rights

Article 1 of Protocol (peaceful enjoyment of property), and Article 8 (right to respect for private life & home) apply to planning decisions.

However the above convention right is qualified and a planning authority must take into account and balance these convention rights against the public interest that exists in taking enforcement action against a breach of development control. In carrying out this balancing exercise between private rights and public interest it is considered that the taking of

enforcement action is reasonable and proportionate and notwithstanding the convention right, and is justified in the circumstances of this case

3 Conclusion

For the reasons set out in the officer delegated report in Appendix 1, officers consider that residential use of the property is inappropriate and therefore that the Enforcement Notice should not be withdrawn.

Committee may consider, contrary to both delegated decisions on previous applications and the appeal decision office, that the level of amenity for the residents at the property is after all acceptable and give weight to the fact that the site is being used as a 'live work' space i.e. the operator lives on site with his family.

Whilst officers recommend that the enforcement notice is not withdrawn, should members disagree it is suggested that a new planning application is sought so that the residential occupation of the site is linked to the operation of the business on site.

4. Recommendation

The Head of Planning recommends that the enforcement notice is not withdrawn.

Ward Councillors: Cllr Azher Iqbal, Cllr Jo Johnson, Cllr Matthew Mahabadi

Appendix 1 – Officer Delegated Report (most recent change of use application)

Delegated Report

Application Ref: 17/01112/FUL

Proposal: Change of use at first floor only to 2-bed residential dwelling (retrospective)

Site: 89 Fengate, Peterborough, PE1 5BA,
Applicant: Mrs Kiran Shazadi

Agent:
Site visit: 22.08.2017

Case officer: Mrs Louise Simmonds
Telephone No. 01733 454439
E-Mail: louise.simmonds@peterborough.gov.uk

Recommendation: REFUSE

1 Description of the site and surroundings and Summary of the proposal

Site and Surroundings

The application site comprises a detached two storey building which is situated immediately adjacent to an area of enclosed hardstanding to the east. The site forms part of a single planning unit with this adjacent land and was last lawfully used for offices associated with vehicle rentals (sui generis use).

The site is bound to the north by several small B2/B8 industrial units, with one much large B8 storage warehouse further to the north-east. To the west, the site is bound by a sui generis vehicle sales premises. The southern boundary is formed by the public highway, with residential dwellings beyond and there are more residential dwellings further to the east.

The site is enclosed by a mixture of 2-2.4 metre high boundary treatments (metal wire fencing, low brick wall and close boarded timber fencing). Vehicular access is currently taken from No.89 Fengate via a dropped kerb onto the highway and gates to the side of the building.

The site is located within the identified Eastern General Employment Area, as set out in Policy SA11 of the Peterborough Site Allocations DPD (2012).

Proposal

The application seeks planning permission for the change of use of the premises to a residential unit at first floor (Class C3). The open car sales within the outside areas and a ground floor office associated with the car sales are proposed to be retained. It should be noted that the residential use has already commenced and as such, the application is retrospective.

It should also be noted that this application follows a number of previous refusals for residential development on the site, including at first floor, all of which are set out in Section 2 below.

2 Planning History

Reference	Proposal	Decision	Date
P0632/78	Change of use of house to offices; use of land as building contractors yard, erection of building for use as workshop and for storage of plant and materials, and associated parking and landscaping; also independent industrial/storage building on rear part of site	Permitted	04/09/1978
P0857/78	Erection of joinery workshop and office extension and approval of details of other buildings (stores and workshop, etc) in connection with builders yard	Permitted	02/11/1978
P1016/78	First floor extension to house to provide office accommodation	Permitted	20/12/1978
P0489/79	Construction of porch at rear	Permitted	19/06/1979
92/P0710	Erection of industrial unit as amended by revised parking and storage layout as received by the Local Planning Authority on the 6th October 1992	Permitted	15/10/1992
05/00615/FUL	Change of use to extension of car park, erection of fence, changes to driveway including gates and lockable bollards	Permitted	08/09/2005
14/01268/PRIOR	Change of use from office (B1a) to dwellings (C3)	Prior Approval Refused	03/09/2014
14/01986/FUL	Insertion of an additional unit for use classes B1, B8 and showroom	Withdrawn by Applicant	11/12/2014
15/00606/FUL	New unit for use classes B1, B8 with trade counter	Permitted	18/06/2015
15/00610/FUL	Change of Use to Dwellinghouse	Withdrawn by Applicant	18/06/2015
15/01244/FUL	Change of use of office to dwellinghouse - re-submission	Refused	15/09/2015
16/01535/FUL	Proposed change of use to external car sales use and office on the ground floor and (C3) residential flat on the first floor - Retrospective	Refused	28/09/2016

3 Planning Policy

Decisions must be taken in accordance with the development plan policies below, unless material considerations indicate otherwise.

National Planning Policy Framework (2012)

Section 1 - Alternative uses for Allocated Employment Sites

Where there is no reasonable prospect of an employment use being implemented applications for alternative uses should be considered, having regard to market signals and the need to support sustainable local communities.

Peterborough Core Strategy DPD (2011)

CS14 - Transport

Promotes a reduction in the need to travel, sustainable transport, the Council's UK Environment

Capital aspirations and development which would improve the quality of environments for residents.

CS16 - Urban Design and the Public Realm

Design should be of high quality, appropriate to the site and area, improve the public realm, address vulnerability to crime, be accessible to all users and not result in any unacceptable impact upon the amenities of neighbouring residents.

Peterborough Site Allocations DPD (2012)

SA11 - General Employment Areas and Business Parks

Within the allocated General Employment Areas and Business Parks planning permission will be granted for employment uses (classes B1, B2 and B8 within the GEAs, classes B1(a) and B1(b) within the Business Parks).

Peterborough Planning Policies DPD (2012)

PP03 - Impacts of New Development

Permission will not be granted for development which would result in an unacceptable loss of privacy, public and/or private green space or natural daylight; be overbearing or cause noise or other disturbance, odour or other pollution; fail to minimise opportunities for crime and disorder.

PP04 - Amenity Provision in New Residential Development

Proposals for new residential development should be designed and located to ensure that they provide for the needs of the future residents.

PP12 - The Transport Implications of Development

Permission will only be granted if appropriate provision has been made for safe access by all user groups and there would not be any unacceptable impact on the transportation network including highway safety.

PP13 - Parking Standards

Permission will only be granted if appropriate parking provision for all modes of transport is made in accordance with standards.

Peterborough Local Plan 2016 to 2036 (Preliminary Draft)

This document sets out the planning policies against which development will be assessed. It will bring together all the current Development Plan Documents into a single document. Consultation on this document took place between December 2016 and 9 February 2017. The responses are currently being reviewed. At this preliminary stage only limited weight can be attached to the policies set out therein.

4 Consultations/Representations

PCC Enforcement Team

No comments received.

PCC Wildlife Officer (25.07.17)

No comments.

PCC Peterborough Highways Services (04.08.17)

Further information required – The relationship of the commercial aspects of the site appears to be at odds with the need to sell cars, with only a very small space available to the front of the site. It is evident from the amount of hard surfacing that the sales area will significantly eat into the amenity space for occupiers of the residential unit. No proposals have been suggested as to how all of the areas are to be accessed, or how they will be used. If the Applicant were to provide more information, then the Local Highway Authority could provide further assessment and comment.

Local Residents/Interested Parties

Initial consultations: 11
Total number of responses: 0
Total number of objections: 0
Total number in support: 0

No public representations have been received.

5 Assessment of the planning issues

The main considerations are:

- Principle of development
- Flood risk
- Amenity for future occupants
- Parking and highway implications

a) Principle of development

As detailed in Section 1 above, the application site is located within the allocated Eastern General Employment Area. Whilst Policy SA11 of the Peterborough Site Allocations DPD (2012) clearly states that within these areas 'planning permission will be granted for development within Use Classes B1, B2 and B8', it does not explicitly preclude other forms of development. Notwithstanding this, it is necessary to ensure that the intended use is compatible with its surroundings.

Section 2 above details the planning history of the site, and it should be noted that the application property was previously a residential dwellinghouse. Furthermore, there are a number of residential properties within the immediate locality and as such, it is considered that the principle of a residential dwellinghouse on the site is not unacceptable. However, the proposal must satisfy all other relevant material planning considerations and for the reasons given below, the current proposal is unacceptable.

With regards to the car sales use of the site, it has previously been established that the site was used for car sales (as part of consideration of an earlier prior approval application from the change of use from B1 offices to C3 dwellinghouses which was refused as not being permitted development). Accordingly, it is therefore accepted that car sales on this site is an established lawful use.

b) Flood risk

The application site partially falls within Flood Zone 2 and therefore, is at risk from flooding. In accordance with the National Online Planning Practice Guidance, the proposed residential use falls within the 'more vulnerable' classification and, according to paragraph 067 (Reference ID: 7-067-20140306) is appropriate. However, the proposal must still pass the Sequential Test to accord with the National Planning Policy Framework (2012). Whilst this is noted, the development represents a change of use and, whilst a considerable period of time has elapsed, a reversion back to a dwellinghouse. Similarly, there are numerous residential properties within the surrounding locality which are also within Flood Zone 2.

Accordingly, whilst it is accepted that there are likely to be more sequentially preferable locations for the intended residential unit, a reason for refusal on this basis would not be appropriate. The proposal has been safe for its lifetime, with no known flooding incidents, and would remain so into the future. On this basis, it would not be at unacceptable risk from flooding and is therefore in accordance with Policy CS22 of the Peterborough Core Strategy DPD (2011).

c) Amenity for future occupants

In the time period since the property was last a residential dwellinghouse, a considerable level of

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industrial development has taken place surrounding the site. Indeed, the small industrial estate immediately to the north of the site was accepted on the provision that the application site itself was converted to a commercial/industrial use itself (application reference P0632/78).

Notwithstanding this, the City Council's Pollution Control Officer has previously raised no objections to a proposed residential use of the entire site. In terms of noise and general disturbance to future occupants, there are a number of examples of residential development within the locality which the relationship to industrial units is similar. However, the current proposal seeks a mix of car sales and residential unit on the same site. Whilst car sales in itself is not a generally noisy use, commercial development surrounding the entire proposed residential unit would create some level of disturbance to future occupiers which is not considered compatible with affording an acceptable level of amenity.

In addition, a recent planning permission (under application reference 15/00606/FUL) that has been partially implemented (i.e. the building has been erected) results in development which conflicts directly with the amenities of future occupants. This permission relates to the immediately adjacent site to the east. A new industrial unit for Class B1 or B8 uses (with ancillary trade counter) set back from the back edge of the public highway by an area of associated car parking has recently been constructed and there is a pending application to change the use of the site to a D1 training facility (reference 17/01512/FUL). The unit building is sited only 1.3 metres from the shared boundary with the application property, and projects beyond the rear elevation by approximately 7.25 metres. Whilst of mono-pitched roof design (sloping upwards into the site), the maximum overall height extends to 6.7 metres which effectively represents two storey development.

The current proposal (unlike the last refused scheme, reference 16/01535/FUL) does not seek to alter any of the facing windows within the property and is therefore very similar in layout (albeit this related to the entire building) as application reference 15/01244/FUL which was refused by the Local Planning Authority and upheld at appeal.

The proposed kitchen, a primary habitable room, would solely be served by a window to the eastern elevation. This window would be significantly dominated by the adjacent industrial unit, given the lack of separation and orientation. The building would appear unduly obtrusive, overbearing and result in an unacceptable level of natural daylight/sunlight. Furthermore, to the rear, one of the proposed bedrooms would also face directly out onto the adjacent industrial building. Given its close proximity, it would afford future occupants a poor outlook and an unacceptable level of natural daylight.

Turning to the ground floor, the proposal seeks an outdoor garden/amenity area to the rear of the building. Given the siting of the adjacent industrial building, which would abut the site along half the depth of the garden proposed, the area would be wholly dominated and subject to an unacceptable degree of overbearing and overshadowing impact. Accordingly, this would render the outdoor amenity space an unattractive place in which to reside, and would fail to afford future occupants with sufficient 'liveability'.

On this basis, the proposal would be subject to unacceptable disturbance from the ground floor/outdoor car sales business, would not provide acceptable outlook or natural daylight to primary habitable rooms and would not afford a usable outdoor amenity space which is considered essential for occupants. The proposal would not provide an acceptable level of amenity for future occupants and is therefore contrary to Policy PP4 of the Peterborough Planning Policies DPD (2012).

d) Parking and highway implications

The Local Highway Authority (LHA) has raised objections to the current proposal on the basis of insufficient information, and requested that further clarification be sought. This request was noted, however Officers do not consider that it would be prudent to require the Applicant to incur further expense given that the scheme is deemed unacceptable for the reasons set out above. Furthermore, notwithstanding the position of the LHA, it is not considered that the site can safely or

acceptably accommodate the level of development proposed in terms of safe access or parking.

As set out above, it is proposed for the existing car sales use to remain at ground floor whilst a 2-bed flat would be created at first floor. The submitted drawings propose that both uses utilise the existing vehicular access to the site, with 2no. residential parking spaces and turning created to the rear of the building, and car sales retained to the front. As the proposed uses would not be linked - no evidence has been provided that the residential accommodation would be tied to the car sales - the proposal would result in independent traffic generation. There would be insufficient space on which to display cars for sale within the area shown without significantly impeding the access/egress of the proposed residential unit. Accordingly, it is considered that the proposal poses an unacceptable risk in terms of conflict from vehicles associated with both uses which could overspill onto the highway, particularly in terms of vehicles waiting to enter the site whilst another leaves. The proposal therefore poses an unacceptable risk to highway safety through insufficient parking and access, which is contrary to Policy CS14 of the Peterborough Core Strategy DPD (2011) and Policies PP12 and PP13 of the Peterborough Planning Policies DPD (2012).

6 Conclusions

The proposal is unacceptable having been assessed in light of all material considerations, including weighing against relevant policies of the development plan and for the specific reasons given below.

7 Recommendation

The case officer recommends that Planning Permission is **REFUSED** for the following reasons:

- R 1 The proposed change of use to a residential flat at first floor, by virtue of its relationship to the ground floor car sales use and industrial building to the east (No.99 Fengate), would not afford future occupants an acceptable level of amenity. The ground floor/outdoor car sales use would generate an unacceptable level of noise and general disturbance. In addition, the siting of the adjacent industrial building would result in an unduly dominant feature which results in unacceptable overbearing and overshadowing impact to the proposed primary habitable rooms and outdoor amenity area. Accordingly, the proposal is contrary to Policy PP4 of the Peterborough Planning Policies DPD (2012).
- R 2 The application site is not of a sufficient size to accommodate the access and parking requirements associated with the lawful car sales (sui generis) and proposed residential uses. Owing to insufficient parking, access and turning areas, the proposed mix of uses within the site would generate conflict between vehicle movements which is likely to spill out onto the adjacent public highway, causing an impediment to the free flow of traffic and danger to highway safety. Accordingly, the proposal is contrary to Policy CS14 of the Peterborough Core Strategy DPD (2011) and Policies PP12 and PP13 of the Peterborough Planning Policies DPD (2012).

Appendix 2 – Appeal Decision (change of use of whole property)



Appeal Decision

Site visit made on 22 March 2016

by Claire Searson MSc PGDip BSc (Hons) MRTPI IHBC

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

Decision date: 7 April 2016

Appeal Ref: APP/J0540/W/15/3139114
89 Fengate, Peterborough PE1 5BA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended, against a refusal to grant planning permission.
 - The appeal is made by Jellings Properties Ltd against the decision of Peterborough City Council.
 - The application Ref 15/01244/FUL, dated 2 August 2015, was refused by notice dated 15 September 2015.
 - The development proposed is change of use to a dwellinghouse.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposed change of use would provide acceptable living conditions for future residents of 89 Fengate in terms of outlook and light.

Reasons

3. No 89 Fengate is a former residential property which has accommodated a number of different uses over many years. The area in general is a mix of uses, including residential dwellings, shops, offices and B1, B2 and B8 industrial units. The neighbouring property to the west (No 87) includes a cafe, with residential accommodation above. There is a large area of hard standing between the appeal property and No 87 which leads to a garage repair unit, set behind this. To the rear of No 89 there is a large open area of land, leading to other industrial units beyond.
4. To the east of the appeal site there is currently a large area of enclosed hard standing which has extant consent for the construction of a new unit for use classes B1 or B8¹. There is no reason to suppose that this permission will not be built out and it is therefore an important material consideration for the purposes of my decision.
5. To the east, the approved industrial unit would be set just under 1.5 metres from the boundary with No 89. This would be around 12 metres in depth, with an approximate 7 metre projection beyond the rear elevation of No 89. The roof would be a shallow mono-pitch design, sloping upwards towards the rear

¹ 15/00606/FUL, approved 18 June 2015.

- of the unit to around 6.5 metres in height. To the front, the eaves of the unit would appear to be just below the eaves height at No 89.
6. Two first floor windows to the rear elevation of No 89 (windows 2 and 3 as annotated on the appellant's drawing number AP023), serving a bedroom, would look across towards the flank elevation of the permitted unit. There would be only a small gap between the new unit and the appeal property and the height of the unit would be equivalent to a two-storey building. Therefore the relationship of these windows with the new unit would be in close proximity at first floor level and as indicated on drawing number AP023², both windows would fail the horizontal 45 degree test.
 7. The combination of the height and siting of the new unit, along with the approved length of the projection of this beyond the rear of No 89, would mean that the outlook would be impeded. This effect would be felt from both windows and I am not persuaded that the presence of window 3, as located further away from consented unit, would offset any impacts as viewed from window 2, which would be closest to the new unit, in any way. The result would be to enclose and dominate the view from both windows and, overall, I find that this would have an overbearing impact by restricting the current open outlook from these windows to an unacceptable level.
 8. I also consider that the outlook from the side bedroom would be adversely affected. This window would look towards the unit and the customer car park. While I acknowledge that the unit would not cut directly in front the window, the set back of the unit from the window is small at around 0.75 metres. This close proximity, in combination with the height of the unit, would therefore be prominent and dominant in the view and would enclose the outlook from this bedroom to a harmful degree. My view is again supported by the failure of the horizontal 45 degree test, as indicated on drawing number AP023.
 9. In relation to light, while I find that the outlook would be restricted to both bedrooms, I do not consider that daylight would be restricted to a harmful degree. I note that this would not exceed the 45 degree test in respect of the vertical sky component in either bedroom. The windows to the rear of the property are north facing and thus natural light is already limited due to their orientation and would not be further compromised to a detrimental level. While the other bedroom is on the eastern elevation and therefore would experience greater levels of natural light, I find that levels of sunlight and daylight would not be compromised here, as the unit, located to the north of this window, would not cause any overshadowing due to the tracking of the sun.
 10. Nevertheless, this does not outweigh my findings in respect of harm to outlook from both of the bedrooms. I consider that this would be experienced by future occupants to a significant level and I do not agree that both 45 degree tests must fail in order to be a significant issue; my assessment is based my own findings on the specific circumstances of the site as well as on failure of the horizontal test. I am also not persuaded that as bedrooms, the impacts are less significant than other rooms, as they are all habitable rooms and it is therefore necessary to ensure adequate levels of amenity. Rooms designated

² The appellant's statement refers at paragraph 4.3 to drawing number AP040 as showing the 45 degree lines in plan. However, as no such drawing is before me and AP023 clearly fulfils that function I have assumed the reference to be erroneous.

on plan as bedrooms are commonly used for dual or alternative purposes, such as a home office.

11. Turning now to the effect on the outdoor amenity area, I saw that this space is currently hardstanding, surrounded by various types of boundary treatment which are around 2metres in height. The size of the garden is generous and the area closest to the eastern boundary would be landscaped to provide a grassed area, with the rest of the garden used for parking. The projection of the proposed unit would extend approximately half way along the length of the rear garden.
12. Here I find that the outdoor amenity space would also be harmed. Due to the proximity and height of the permitted unit along part of the eastern boundary, rather than positively adding to a sense of enclosure, I find that this would have an overbearing impact, dominating and diminishing the open outlook currently gained from the outdoor area to the rear of the property.
13. While I acknowledge that the garden is north facing and is therefore currently shaded by the house during much of the day, a further shading effect would be experienced in the morning due to the tracking of the sun from east to west. While the garden is of a reasonable length, the area beyond the projection of the unit towards the top of the garden would be overshadowed by this. On this basis, I find that this would also reduce the levels of natural light to this area to a harmful degree. This effect would not be mitigated by the condition in place for the unit relating to materials and their colour.
14. I note the comments by the appellant that the proposals are commensurate with the level of amenity usually enjoyed and expected within high density town centre areas and that the current outlook from the appeal property is towards industrial units. However, the appeal property is a detached building set in reasonably large grounds. None of the industrial buildings in the locality are in close proximity and do not give rise to the impacts on outlook and light that I have identified.
15. Overall, I have found that the permitted new unit to the east of No 89 Fengate would cause would cause harm to the living conditions of its future occupiers of this property as a dwellinghouse. The adverse effect on outlook from first floor habitable rooms, and the rear garden, as well as the overshadowing of this, would be significant. Accordingly the proposal would not accord with Policy PP4 of the Peterborough Planning Policies Development Plan Document (adopted 2012) which seeks to protect amenity levels in new residential development.

Other Matters

16. The appellant has submitted a number of examples of residential dwellings adjacent to industrial units. However, I saw on my site visit that the outlook of residential properties was not affected by those units, as these were located at a greater distance away. Where units were in closer proximity, there were no facing windows serving habitable rooms or the units were at a smaller scale to the proposals before me. In addition, the examples of residential flats above business units are not directly comparable as there is no impact on outlook from these dual uses within a single building. In any case, I have determined the appeal on its own merits.

17. The appellant advises that he has experienced difficulty in finding suitable commercial tenants for No 89. However, no detail of the efforts made in this respect has been provided. Therefore, neither these nor any other matters raised are of such significance as to outweigh the considerations that have led to my conclusion on the main issue.

Conclusion

18. For the reasons I have set out above, and having considered all matters raised, I dismiss the appeal.

C Searson
INSPECTOR

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