

Agenda Item 5.2

Planning and EP Committee

Application Ref:	19/00696/REM
Proposal:	Approval of access, appearance, landscaping, layout and scale for the erection of five self-build detached bungalows (with refuge in the roof space) together with associated access, parking and amenity space pursuant to outline planning permission 17/01902/OUT
Site:	Land on the West Side Of, Guntons Road, Newborough, Peterborough
Applicant:	Mr Patrick Burke, Burmor Roberts
Agent:	Mr Paul Sharman, Sharman Architecture
Site visit:	10.05.2019
Referred by:	Councillor Steve Allen
Reason:	Proposed reserved matters scheme differs from the outline planning permission
Case officer:	Mr D Jolley
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Recommendation:	GRANT subject to conditions

1 **Background**

The application was previously deferred by Members of the Committee to allow for submission of amended drawings in respect of Plots 1, 4 and 5 to remove the balconies with raised platforms. This was in order to ensure that the dwellings met with the legal definition of a bungalow and therefore comply with the outline planning permission.

For reference, the legal definition of a bungalow was established in the case of Ward v Patterson in 1929 which held “that a bungalow was a building of which the walls, with the exception of any gables, were no higher than the ground floor, and of which the roof started at a point substantially not higher than the top of the wall of the ground floor, and that it was immaterial in what way the space in the roof of the building so constructed was used”.

Revised drawings have been received a full public consultation has been undertaken.

For completeness, the following report details all assessment of the proposal as Members formed no view of the proposal at the last Committee.

2 **Description of the site and surroundings and Summary of the proposal**

Site and surroundings

The application site extends to approximately 0.42 hectares (44 metres x 95 metres), is rectangular in shape and located on the western side of Guntons Road to the rear of Nos.78 to 90. The application site is primarily a large grassed area/paddock and part of the domestic garden to No.90 Guntons Road.

The site lies within the identified Newborough settlement boundary and sits approximately 70 metres from the southern entrance to the village. The site is bounded by: residential development

to the east, comprising both bungalows and two storey dwellings; rear gardens to residential properties fronting Guntons Road to the north and south; and agricultural fields to the west. There is a drain/ditch parallel to the western boundary.

Access to the site would be gained via an existing access off Guntons Road which is also used by the host dwelling. There is a further independent access off Guntons Road serving the host dwelling.

Proposal

The application seeks reserved matters consent in respect of appearance, landscaping, layout and scale for the erection of 5no. self-build detached bungalows (with refuge in the roof space) together with associated access, parking and amenity space pursuant to outline planning permission 17/01902/OUT.

The application also seeks to comply with the requirements of conditions C6 (archaeology), C7 (fire hydrants), C8 (Arboricultural Method Statement), C10 (access details) and C13 (Construction Management Plan).

3 Planning History

Reference	Proposal	Decision	Date
17/01902/OUT	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	Permitted	16/03/2018

4 Planning Policy

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

Peterborough Local Plan 2016 to 2036 (2019)

LP01 - Sustainable Development and Creation of the UK's Environment Capital

The council will take a positive approach that reflects the presumption in favour of sustainable development within the National Planning Policy Framework. It will seek to approve development wherever possible and to secure development that improves the economic, social and environmental conditions in the area and in turn helps Peterborough create the UK's Environment Capital.

LP02 - The Settle Hierarchy and the Countryside

The location/scale of new development should accord with the settlement hierarchy. Proposals within village envelopes will be supported in principle, subject to them being of an appropriate scale. Development in the open countryside will be permitted only where key criteria are met.

LP13 - Transport

a) New development should ensure that appropriate provision is made for the transport needs that it will create including reducing the need to travel by car, prioritisation of bus use, improved walking and cycling routes and facilities.

b) The Transport Implications of Development- Permission will only be granted where appropriate provision has been made for safe access for all user groups and subject to appropriate mitigation.

c) Parking Standards- permission will only be granted if appropriate parking provision for all modes of transport is made in accordance with standards.

LP16 - Urban Design and the Public Realm

Development proposals would contribute positively to the character and distinctiveness of the area. They should make effective and efficient use of land and buildings, be durable and flexible, use appropriate high quality materials, maximise pedestrian permeability and legibility, improve the public realm, address vulnerability to crime, and be accessible to all.

LP17 - Amenity Provision

a) Amenity of Existing Occupiers - 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.

b) Amenity of Future Occupiers - Proposals for new residential development should be designed and located to ensure that they provide for the needs of the future residents.

LP28 - Biodiversity and Geological Conservation

Part 1: Designated Site

International Sites - The highest level of protection will be afforded to these sites. Proposals which would have an adverse impact on the integrity of such areas and which cannot be avoided or adequately mitigated will only be permitted in exceptional circumstances where there are no suitable alternatives, overriding public interest and subject to appropriate compensation.

National Sites- Proposals within or outside a SSSI likely to have an adverse effect will not normally be permitted unless the benefits outweigh the adverse impacts.

Local Sites - Development likely to have an adverse effect will only be permitted where the need and benefits outweigh the loss.

Habitats and Species of Principal Importance- Development proposals will be considered in the context of the duty to promote and protect species and habitats. Development which would have an adverse impact will only be permitted where the need and benefit clearly outweigh the impact. Appropriate mitigation or compensation will be required.

Part 2: Habitats and Geodiversity in Development

All proposals should conserve and enhance avoiding a negative impact on biodiversity and geodiversity.

Part 3: Mitigation of Potential Adverse Impacts of Development

Development should avoid adverse impact as the first principle. Where such impacts are unavoidable they must be adequately and appropriately mitigated. Compensation will be required as a last resort.

LP32 - Flood and Water Management

Proposals should adopt a sequential approach to flood risk management in line with the NPPF and council's Flood and Water Management SPD. Sustainable drainage systems should be used where appropriate. Development proposals should also protect the water environment.

5 Consultations/Representations

PCC Peterborough Highways Services (17.05.19 and 20.07.19)

No objections - The proposals for the access are acceptable and the Applicant is aware that a Section 278 application will need to be made under the Highways Act. The submitted Construction Management Plan is also accepted.

Environment Agency (23.07.19)

No objections - Satisfied that the revised drawing demonstrates that the finished floor levels will be set a minimum of 500mm above the existing ground levels and will therefore be in accordance with the approved Flood Risk Assessment.

Lead Local Drainage Authority (10.09.19)

No objections - The submitted drainage strategy appears to demonstrate that a 1 in 100 year event (plus climate change) can be accommodated. Outfall would be to the North Level IDB drain. Unfortunately it's a traditional gully to pipe system which wouldn't meet the current SuDS standards, but from a surface water flood aspect it should be acceptable if built as designed.

North Level District Internal Drainage Board (29.5.19 and 15.07.19)

No further comments.

PCC S106 Planning Obligations Officer (04.07.19)

The proposal will be CIL Liable, however note that it is the intention the dwellings will be Self Build. Providing the appropriate CIL Forms are submitted in accordance with the CIL Regulations., Self Build Exemption can be awarded for each dwelling.

PCC Tree Officer (07.06.19 and 03.07.19)

No objections - The submitted soft landscaping scheme is broadly accepted however further details in respect of the boundary hedge to the west are required. The number of gaps proposed is not acceptable and further strengthening required. This could be secured by condition, with an emphasis on a native mix of planting.

PCC Open Space Officer (23.07.19)

No comments as the proposal does not contain any Public Open Space.

PCC Archaeological Officer (04.09.19)

No objections - The recommended archaeological evaluation has been undertaken and reported. Therefore, condition C6 may be discharged.

PCC Pollution Team (07.06.19 and 23.07.19)

No objections - It is unlikely that the proposal would have a detrimental effect on the local noise climate or be affected by ground contamination. The basic Construction Management Plan is noted, best practicable means should be employed to control noise and dust during the construction phase so that the amenity of neighbouring properties is not affected.

PCC Waste Management (02.07.19)

No objections.

Highways England (04.07.19)

No objection.

Health & Safety Executive (08.05.19)

No objections - Does not advise against granting permission.

Cadent Gas (09.07.19)

No objection.

Cambridgeshire Fire & Rescue Service

No comments received.

Newborough & Borough Fen Parish Council (22.05.19)

Objection - The current plans submitted are a change from the outline planning permission granted by Peterborough City Council.

The current plans include a habitable roof space (plots are advertised on 'Rightmove' to this effect), this is no longer a 'refuge in the roof' and would be classed as dormer bungalows.

Furthermore, bedrooms in the loft space would mean the apex of the roofs will be higher,

overlooking the houses on Guntons Road, especially given the number of skylights indicated on the plan.

Local Residents/Interested Parties

Initial consultations: 18
Total number of responses: 5
Total number of objections: 4
Total number in support: 0

3 representations were received in relation to the initial consultation stating:

The outline permission was granted for bungalows with a refuge area above the ground floor in case of flood. We understand that a bungalow is a single storey building with all living accommodation at ground floor level. However we have found that Rosedale estate agents are selling four proposed properties on this site ("off plan" we assume), each of which has a substantial amount of living space on the first floor.

We note that the bungalows on Guntons Road adjoining the site have a height of approximately 5.5 metres at ridge level.

There is no information in the application about the properties on plots 2/3/4/5, only for plot 1 (document "Plot 1 first floor plan BN/17/D"). Examination of this suggests that the finished height will be 6.5 metres plus 0.5 m for the raised floor - 7 metres above ground level in total.

We therefore had to refer to Rosedale's adverts and drawings, acknowledging that they state are provisional and subject to the planning process.

From the drawings in the advert, we estimate that the proposed buildings on plots 4 and 5 will be between 7 (minimum) and 8 metres in height. Our house which is a true 2 storey building is approximately 7.5 metres in height.

The proposed house (plot 5) adjacent to 76 Guntons Road garden will have two bedrooms, a bathroom and an outside sundeck on the first floor. We submit that this and the other buildings are not bungalows and object against the proposal as it stands.

We also point out that outline planning permission was granted subject to the new buildings being not visible from Guntons Road. This condition is likely to be breached by the apparent proposals.

We note that the house on plot 5 would have been 7.737 metres from our boundary according to the OPP plan. It is unclear from the plans in the current application, but the proposal is for a distance of around 2 metres from the boundary.

Finally, as the details of the bungalows on plots 2-5 are not provided in the documentation, we ask that the application is rejected until full details are supplied.

And was not informed that the bungalows were being built and was assured that the land behind the house was 'land that could not be built upon'.

I discovered the proposed development on this website.

Could you please get back to me to discuss exactly what is being built, how close to 78 Guntons Road it will be, will there be a road behind the property? Will there be a lamppost shining into my bedroom window?

The plans that were originally agreed by the committee last year were based on the fact that the properties were for the owners 'elderly parents' and the other elderly residents, incorporating

affordable accommodation for the local elderly population. It now appears that this is now a luxury gated development, in total contrast to the original application considered by the committee.

The plans outlined are incomplete. There appears to be only one property outlined at present. Plans submitted should incorporate the layout and details for all properties in order to make a judgement on proposals.

Property outlined is vast with sleeping/living accommodation on the upper floor, in addition incorporating large balconies. It was my understanding that plans agreed were that there was only to be refuge space in the loft, and properties were to be of single storey living accommodation.

The properties would be visible from Guntons Road.

Border fencing is not sufficient. Currently there is a 30 year old chain link 5ft fence. This is not to be replaced in new proposals. Border fencing should be in line with the rest of the development, as stated in original proposals. The road used by refuse/emergency and private vehicles would be an invasion of privacy to neighbouring properties. My property has bedrooms facing the rear garden, and this would be in clear view for all vehicle users/pedestrians accessing the proposed site.

The hours of proposed works are lengthy and over six days a week. This would affect mine and neighbouring resident's quality of life and wellbeing. I would propose that hours be over the shorter period Monday/Friday to minimise the noise, mess and disruption experienced.

Planning outlined stated that until permission had been granted, there was to be no construction or activity in this land. Bulldozers and diggers have been present and used in this land recently, contrary to instruction agreed.

One of my main concerns is that usually garden backs onto garden. Here, garden backs onto road and parking.

Is it possible to mandate that a brick/stone wall (maybe 6 feet tall) be built behind the older properties to protect them from traffic and intruders? Otherwise we will be vulnerable.

Representation from **Councillor Richard Brown** stating: I confirm that I have no problems with the plans.

Representation from **Councillor Nigel Simons** stating: I have no objections.

Representations received in relation to the second consultation:

Councillor Allen: I do not have a comments to make, nor objections to record. At this stage I have not received any representations from local residents.

Councillor Brown: I confirm I have no reason to object to this planning application. None of the residents have raised any concerns to me regarding this issue.

Representations received in relation to the third consultation:

Representation from **Councillor Allen** stating:

OP [*outline permission*] consent was given to 5 bungalows with refuge spaces in the lofts and living accommodation to be restricted to the ground floor.

The PA [*planning application*] is for 5 two storey dwellings whose only similarity to bungalows are roofs with eaves at ground floor ceiling height. They are not bungalows.

A condition in the documentation in the OP stated that the new properties should not be visible

from Guntons Road. The two storey buildings will be very visible over the tops of the existing properties.

The heights of the buildings in the PA are approx. 5.2 metres for the garages, 6.5 m for the smaller buildings and 7 m for the larger ones including the condition that the buildings were to be raised 0.5m above ground level to protect from flooding. No plans were submitted in the OP, however given the condition of visibility from Guntons road, the PA should be for dwellings no higher than the existing bungalows at a height of 5-5.5 metres.

The ground plans of the site in the OP show dwellings with parking spaces in between the bungalows leaving a partially open aspect to the site. The PA shows garages filling these spaces presenting a solid line of buildings as seen from the existing properties. It is now a high density development.

In the OP the building on plot 5 was to be over 7.7 metres from the boundary of the garden at no 76 Guntons Road. It is now estimated to be approximately 4 m from the boundary.

Documentation in the OP stated that there should be no windows overlooking the existing properties. The PA plans show first floor windows front and rear.

The OP appeared to include fencing at a height of 1.8m which is no longer specified in the PA.

The OP consent included public amenity space on the land adjoining the existing houses. This has been completely removed from the PA which is now for a private gated development.

Representation from neighbour stating:

The outline planning permission for this development was for 5 bungalows with roof space refuges and amenity land which would have considerable impact on the neighbouring properties. It has been turned into a gated community of (as Rosedale estate agents describe them) 5 detached "bungalows" with garage which have significant first floor accommodation of a similar height to our two storey house. This beggar's belief. They are clearly two storey houses that overshadow the existing bungalows giving the occupants no privacy, where the new occupants will enjoy privacy and the views over the opens fields. The designs of the houses now make the development high density.

A point in the original application was that the buildings would not be visible from Guntons Road, where they will now loom over the existing properties.

In addition, the existing properties will suffer additional road noise and pollution from the rear to what already comes from Guntons Road at the front.

It is our understanding that outline planning permission cannot be significantly changed in the manner of this proposed development.

We ask why these plans were not rejected as being totally inconsistent with the outline permission.

We note that Rosedale estate agents are selling the projected properties as a "done deal" despite their disclaimers relating to the planning process.

Several of the residents (including ourselves) have lived here for a long time and bought the properties because of the green belt nature of the land behind. This development should therefore have as little impact on those residents as possible. Equal consideration should be given to the residents as the developer

We therefore very strongly object to this development in its entirety.

In relation to the final version of the scheme (balconies removed)

Three Objections have been received stating:

I attended the planning meeting on 24/9/2019 and discovered that there is an obscure court ruling dating to 1929 that defines a bungalow as a dwelling with eaves at ground floor ceiling level, but allowed to have living accommodation above.

The outline planning application permitted the erection of 5 self build bungalows with a flood refuge space in the roof against the possibility of flooding. No mention was made of living accommodation. Such a space need not be more than 1500 mm high with access onto the roof for helicopter or boat rescue in the unlikely event of such a flood.

The neighbouring residents and ourselves, in common with 99% plus of the population and probably most of the members of the planning committee prior to that meeting would not consider a bungalow to have living accommodation above ground floor level unless qualified by words such as "dormer" or "chalet".

Had the outline planning application's intention been for two storey dwellings, then this should have been explicitly mentioned.

Therefore in the absence any intent in the outline planning application to erect two storey dwellings, we ask that the planning application be refused, or referred back to the applicants for amendment in keeping with the letter and spirit of the outline consent.

If the developers plan on raising the land they are building on and cannot guarantee that the existing properties on Guntons Road will not be affected by flooding (which will be caused by the change in the landscape that they are making), then the whole project should be scrapped.

It is my understanding that the current system is a traditional gully to pipe system which would not meet the current SuDS standards. Even with a double gully system, in this instance, the water is expected to stay in the roadway for some time before it drains.

I am not an engineer and do not understand all of the report (dated 11/6/2019) on the planning website, but it does seem like there are several areas prone to flooding. If the road is to be built directly behind the existing properties, there may be a risk to all of the existing properties as water may collect and flow along this new conduit.

Who will be responsible if my garden or house is flooded? The last house (plot5) is behind my own so the drains end behind my small garden.

I also object to the fact that plot 5 will be closer to the existing properties than any of the others - and directly behind my house with no space in between.

If the houses must be built, I would like the garden of plot 5 to border mine and the house to be constructed on the side of the site furthest away from mine.

As the road runs immediately behind the garden, there is the risk of noise, CO2 emissions and light pollution. There are also issues of loss of privacy (as they will be able to see directly into my bedroom and bathroom) and loss of open outlook.

The planning office claims that they do not know where the streetlights would be - and that they cannot prevent the new owners from erecting lights on the house or garage. These will shine directly into my bedroom and bathroom windows as they are located immediately behind the boundary line.

They also cannot prevent persons from gathering in the new roadway directly behind the hedge.

Noise and disturbance will be a problem.

As my garden is small, any noise will be heard in the house with no filter.

I would prefer that the houses not be built but, if they must, I request the following:

That they are actually bungalows with a refuge - not chalet bungalows or the current plans for two story dwellings.

A garden to garden arrangement, where the two gardens are back to back with some space between the houses to minimise light, noise and CO2 pollution.

I would also like assurance from the council and planning committee that the new landscaping will not predispose our properties to flooding.

An Objection from the Parish Council stating:

No objection to the development of the bungalows in principle.

Objects to two storey as roof should be for refuge only

Objects to the gated nature of the proposal as this is contrary to the rural character

An Objection from Cllr Simons stating:

On the 16th March 2018 it clearly states outline planning is granted for 5 self build bungalows with refuge space within the roof.

There was no mention for chalet bungalows.

I strongly object to the revised plans. I cannot support these revised plans.

I am of the opinion planning should be for 5 bungalows with a refuge space within the roof.

It should and must be conditioned in this respect.

An Objection from Cllr Allen Stating:

I fully support Cllr Simons statement.

I believe the Outline Planning as granted should be adhered to with any full planning permission.

6 Assessment of the planning issues

N.B. The previous report has been reproduced, with additional comment in relation to objections received.

The revised scheme with balconies removed is not considered to be materially different to the approved scheme in terms of the matters considered below and discussed previously.

The main considerations are:

- Compliance with the outline permission
- Layout and design
- Neighbour amenity impact
- Amenity provision for future occupants
- Access, parking and highway implications
- Landscaping
- Flood risk and drainage
- Other outline conditions

a) Compliance with the outline permission

The outline planning permission (reference 17/01902/OUT) permitted the erection of 5no. self-build detached bungalows (with refuge in the roof space) together with associated access, parking and amenity space. At the time, the matter of access was secured with appearance, landscaping, layout and scale reserved. This application relates to those reserved matters and Officers consider that the information submitted is adequate to meet with the requirements of the outline condition.

It is noted that objectors have raised concern regarding the presence of bedrooms within the roof space, as they consider that this does not accord with the description of development approved at outline stage. The objectors do not consider that permanent accommodation within the roof space constitutes the 'refuge space' stated in the outline description as this term was believed to be only a temporary location for times of flooding, as stated in the Officers committee report.

However, Officers are of the opinion that the proposal, to include bedrooms at first floor, is consistent with this outline consent. The Committee Report pursuant to the outline permission did state that the development related to bungalows 'with no accommodation within the roof space other than as a refuge in an extreme flood event'. However, it was stated within the report that no details of the proposed dwellings were yet available, and any potential impacts from first floor windows would be considered at reserved matters stage.

No conditions were imposed to restrict the design/scale/storey height of the dwellings granted outline permission or preclude permanent accommodation within the roof. Furthermore, there is no planning definition of 'refuge space' and Officers considered that this can constitute habitable room space as it does provide refuge in times of flooding.

Notwithstanding the above, it is considered that there would be no material harm caused to neighbour amenity through the creation of bedrooms at first floor (set out below) and it would not be reasonable to restrict the Applicant to single storey accommodation, or remove permitted development rights for the conversion of the roof space to permanent living accommodation given the provisions of the outline permission. In light of the above, it is considered that the current proposal accords with the development approved at outline stage.

The outline permission contains two conditions which are required to be complied with at reserved matters stage, or demonstrated as complied with at this stage: C5 relating to the soft landscaping scheme details; and C15 relating to compliance with the approved Flood Risk Assessment. Each of these matters will be discussed in the relevant sections below, however it is considered that the current submission accords with the requirements of these conditions.

In addition, a number of other conditions were secured which require either compliance prior to commencement of development, or prior to occupation of the development. The Applicant has sought, through the details accompanying this reserved matters application, to discharge some of these conditions as follows:

C6 - Archaeological evaluation;
C7 - Provision of fire hydrants;
C8 - Arboricultural Method Statement;
C10 - A scheme of access for the development; and
C13 - Construction Management Plan.

Again, each of these matters will be discussed in the relevant sections below, however it is considered that the current submission accords with the requirements of some of these conditions.

b) Layout and design

It is considered that the proposed layout of the 5no. dwellings, with their associated garages and access, would have a pleasant and high quality appearance, respecting the village setting of the site whilst making appropriate use of the site. The proposed dwellings would not appear cramped in wider views and would mirror the relatively spacious arrangement of Guntons Road.

The overall layout would result in the internal driveway access serving the dwellings backing on to the existing dwellings along Guntons Road, with dwellings in turn fronting on to this with the exception of Plot 1 which would abut the southern boundary of the site, set approximately 3 metres from the boundary shared with the neighbouring dwelling with its garden beyond to the west. Accordingly, the rear gardens of the proposal would bound the open countryside to the west and

this is considered appropriate to respect the setting of the open countryside beyond.

The dwellings themselves are of a high quality design, whilst retaining an overall bungalow form, albeit in a chalet style. It is considered that the proposal would be unlikely to result in an incongruous or unacceptably prominent addition to the street scene, particularly given the significant 50 metre set back of the dwellings from the highway and existing public realm.

It is noted that objectors have stated that the proposal was approved (at outline stage) on the basis that the dwellings would not be visible from Guntons Road. However, again, this was not included as a condition on the outline permission and as such, Officers consider that it would not be reasonable to insist that this be imposed. Notwithstanding this, it is likely that any form of development would be visible from Guntons Road, regardless of the height of the dwellings given the sparse density of development fronting the highway and the generous gaps between existing dwellings.

It is also acknowledged that objectors consider that the dwellings are far taller than bungalows however Officers are of the opinion that, notwithstanding the large roofscapes of the dwellings, they do have an overall bungalow appearance and would be appropriate within the context of the site.

It is considered that the proposed development is acceptable in terms of the impact upon wider views from Guntons Road, and would not result in unacceptable harm to the character, appearance or visual amenity of the locality. On this basis, the proposal is considered to be in accordance with Policy CS16 of the Peterborough Local Plan (2019).

c) Neighbour amenity impact

As detailed above, most of the proposed dwellings would face towards Guntons Road and the gardens of those dwellings fronting onto the public highway. However given the proposed layout with the access driveway between, the dwellings would be set approximately 40 metres from the rear elevations of all existing dwellings and 20 metres from their rear boundaries. These separation distances are considered sufficient so as to avoid unacceptable and overlooking from the proposed first floor windows (serving bedrooms).

Furthermore, whilst the dwellings would extend to a height of approximately 6 metres (Plots 2 and 3) and 6.5 metres (Plots 4 and 5), and would stand on land which has been raised by 500mm from existing levels (discussed in greater detail below), it is not considered that they would appear unduly dominant or overbearing to neighbouring occupants. The dwellings would undoubtedly be visible to neighbouring occupants, and would result in the loss of existing views over the open countryside to the west. However, in planning terms there is no right to a view, and the impact arising in this regard has already been found acceptable through the granting of outline planning permission. Overshadowing impact would also be limited by virtue of the siting to the west and intervening access road.

A garage to serve Plot 5 would be sited closer to No.78 Guntons Road than the proposed dwellings and therefore would have a greater impact upon the associated garden. However, it is considered that this has been appropriately sited, set 1.5 metres from the shared boundary and at an angle, such that the impact would be lessened. Given the single storey nature of this garage and the hipped roof form, it is felt that this would not result in an unacceptable degree of overbearing or overshadowing impact.

Plot 1 would be sited perpendicularly to Guntons Road, to the rear of No.90. The garage to serve this Plot would be sited between, and set approximately 15 metres from the rear elevation of this neighbouring dwelling. Accordingly, the main form of Plot 1 would be set 24 metres from the rear elevation of No.90. As these are back-to-side distances, this level of separation is considered to be sufficient to prevent an unduly overbearing impact to those neighbouring occupants given the one and a half storey nature of the dwelling, and reduce the degree of overshadowing to within acceptable tolerances.

To the south of the site, Plot 1 would be within relatively close proximity to the shared boundary with No.90a Guntons Road - set approximately 3 metres away. However, this neighbouring garden is of considerable length (approximately 60 metres) and the proposal would be sited some 19.5 metres along this garden from the rear elevation of the neighbouring dwelling. It is considered that this relationship would result in an acceptable arrangement to the neighbouring dwelling, and not result in an unacceptable degree of overbearing. The proposal would not overbear the main area of the amenity space, and not render it wholly unusable. Further, whilst first floor rooflights would face towards the neighbouring garden, these would serve an en-suite and landing, secondary habitable rooms. As such, and with obscure glazing to be secured by condition, no undue overlooking or loss of privacy would result.

A condition is considered necessary to require that the southern boundary be made up to a height of 2 metres of close board fencing (and maintained as such thereafter), from the finished ground level, in order to ensure that unacceptable overlooking of neighbour amenity space is not possible.

It is noted that objectors have raised concerns with regards to the height of the dwellings and the impact that this would have however for the reasons set out above, Officers do not consider that the proposal would result in unacceptable harm to their amenity for the reasons set out above.

On this basis, it is considered that the proposal would not result in unacceptable harm to the amenities of neighbouring occupants and therefore, the proposal is in accordance with Policy LP17 of the Peterborough Local Plan (2019).

d) Amenity provision

The proposed development is considered to provide a high overall level of amenity for future occupiers, with spacious, well illuminated primary habitable rooms and generous private amenity space. The proposal would therefore provide adequate amenity for the living and storage needs of prospective occupiers. All plots provide ample space for cycle and bin storage.

It is noted that the Council's recently adopted Local Plan, through Policy LP8, requires that all new dwellings meet the requirements of Part M4(2) of the Building Regulations (often referred to as Lifetime Homes). However, as the dwellings subject to this reserved matters consent were granted planning permission prior to adoption of this document, this requirement cannot now be imposed.

The proposal is considered to accord with the requirements of Policy LP17 of the Peterborough Local Plan (2019) and Officers have no concern regarding the level of residential amenity provided to future occupiers.

e) Access, parking and highway implications

The proposal is to be accessed via an existing field/garden entrance that also serves to give access to the drain to the rear of the site. This is located between Nos.90 and 88 Guntons Road. The proposed access location was approved as part of the outline planning permission subject to associated conditions, and the more specific details of this access have accompanied this reserved matters submission.

The access is to measure 5.5 metres in width for the first 10 metres, as measures from the edge of the public highway, reducing to 4.5 metres over a distance of 6 metres. The requisite 43 metre vehicle-to-vehicle visibility splays can be achieved and are shown on the submitted plans.

With regards to parking and internal access, the proposal would provide for access to the drain running to the north of the site, and would provide the necessary turning for all vehicles, including deliveries and refuse vehicles. Furthermore, parking provision would be in line with the Council's adopted minimum parking standards. All dwellings would be provided with a minimum of 2no. parking spaces and visitors parking would also be catered for.

The Local Highway Authority (LHA) has advised that no objections are raised in respect of the

access submission however, insufficient detail has been submitted to enable the discharge of condition C10 of the outline permission. This condition requires details of how the access will tie into the existing public highway and no technical details have accompanied this submission. Therefore, whilst the access is accepted, the condition cannot be discharged at this time. It however remains in force and a further condition discharge application will be required.

f) Landscaping

The matter of landscaping is one of the reserved matters subject to this current application. Condition C5 of the outline permission specifies the details that must accompany any landscaping scheme and includes:

- Proposed finished ground and building slab levels;
- Planting plans including retained trees, species, numbers, size and density of planting;
- Details of any boundary treatment; and
- The management and maintenance of the amenity area.

A detailed soft landscaping scheme has been submitted which is broadly accepted. The landscaping would comprise replacement and additional tree planting across the site, amenity grassed areas and a strengthened hedgerow to the western boundary. However, Officers and the Council's Tree Officer, consider that the hedgerow along the western boundary of the site requires further strengthening than that which has been shown. Accordingly, a further condition is considered necessary to require further details of this.

With regards to the hard landscaping elements of C5, full details of the proposed finished ground and building slab levels have been submitted and these are accepted (also discussed in greater detail below). Details of boundary treatments have been submitted however these are not yet accepted, as the boundaries to the east and south require additional height and/or replacement. Again, a further condition is considered necessary to secure the details of this.

Whilst it is accepted therefore that the current reserved matters submission does not fully address the requirements of C5, Officers are of the view that a refusal on this basis could not be sustained at appeal.

g) Flood risk and drainage

As part of the outline planning permission, a Flood Risk Assessment (FRA) was submitted and approved. Compliance with this was secured by way of a condition (C15) which specifically requires that the dwellings be set no less than 500mm above the existing ground level, and that flood resilience measures be incorporated to 300mm above the finished floor levels.

Whilst not specifically required to be demonstrated through this reserved matters submission, the issue of finished site levels is material to the appearance of the development which is sought.

The scheme as originally submitted was unclear as spot heights had not been included within the plans detailing floor levels. This was rectified by the Applicant and following receipt of revised plans, the Environment Agency, removed their initial objection. However, Officers were of the view that the revised plans did not accord with the wording of the condition, in so far as some floor levels were not 500mm above the existing levels. The Applicant had taken an average of the height of the ground beneath the slab and set the floor levels 500mm above this. Therefore, it was considered that the levels were not truly 500mm above.

Further revised plans have been received to rectify this, and Officers are now content that the submitted scheme would ensure that the proposed dwellings comply with the element of the FRA.

Associated with the matter of levels, is how surface water run-off from the site will be dealt with. At outline stage, following Committee overturn of Officer recommendation, no drainage scheme was approved or secured. Whilst therefore not a requirement of the current application, Officers were concerned that the submitted site levels could result in altered overland flows and result in off-site flood risk. Principally, this relates to a 'low spot' that would be created within the access road,

adjacent to No.88 Guntons Road.

The Flood and Water management SPD (2019) states that when raising ground levels, it is important that consideration is made for surrounding properties and what changes the new land height may have in diverting flood flows, influencing land drainage or preventing safe access for neighbours during a flood event. The Lead Local Flood Authority (LLFA), who have advised that the submitted drainage scheme appears to be able to cope with a 100 year storm even (Including Climate Change) and as such the proposal is acceptable in regards to flood risk.

h) Other outline conditions

As set out in Section 1, the current application also seeks to discharge a number of other conditions imposed upon the outline planning permission.

Condition C6 requires the submission and approval of a scheme of Archaeological investigation. This has been submitted, and the archaeological evaluation undertaken and report. The submission is accepted by the Council's Archaeology Officer and Officers consider that this condition may be fully discharged.

Condition C7 requires the submission of a scheme for fire hydrants to be submitted and approved. Whilst the Fire Service has been consulted on several occasions, they have failed to provide comment on the details submitted. Unfortunately this is not an uncommon situation and Officers consider that it would be unreasonable to refuse to discharge this condition on the basis that the consultee has failed to provide comments. As such, the submission element of this condition may be discharged.

Condition 8 requires the submission of an Arboricultural Method Statement. A Statement has been submitted and the Council's Tree Officer accepts its contents. As such, the submission element of this condition may be discharged.

Condition 10 requires the submission of a scheme for the access for the development. As set out above, access proposals have been submitted and the Local Highway Authority has stated that there is insufficient detail contained within the submission to meet with the requirements of the condition and as such this condition must remain in force.

Condition 13 requires the submission of a Construction Management Plan (CMP). A CMP has been submitted and is broadly considered acceptable by Officers, the LHA and Council's Pollution Control Team. However, Officers do not accept the proposed long working hours requested. As such, a new condition is recommended that restricts construction hours to 8:00 - 18:00 Monday to Friday and 08:00 - 12:00 Saturday.

i) Other matters

In response to those objections received but not specifically discussed above:

Missing plans - Objectors stated that there was no information uploaded to the public access pages in relation to 4 of the 5 proposed dwellings. This is incorrect, these details are on page two of the public access pages.

Conflict with plans submitted at outline stage - An objector has stated that Plot 5 is not in the same position as the plan submitted under application 17/01902/OUT and specifically, that the dwelling would be closer to the rear of No.76 Guntons Road. The layout submitted at outline stage was indicative only, with the matter of layout reserved for later consideration. As such, this earlier layout holds no weight in the determination of this application.

Unaware of development at time of house purchase - An objector has stated that they have recently purchased a house and were not made aware that there was an approved development to the rear of their dwelling. This is not a material consideration in the determination of the application.

Development should be restricted to for elderly people - An objector has stated that the proposal were approved on the basis of the development being for the Applicants elderly parents and the remainder of the development was for other elderly residents. Whilst it was accepted at the outline stage that bungalows would serve a specific market and cater for the elderly population, this was not secured by condition and there is no planning framework to insist upon this. Outline planning permission was granted for 5no. open market dwellings.

Boundary treatments - An objector has stated that the existing chain link fence is insufficient. As stated above, a condition is to be appended to the permission requiring that southern boundary be made up to a height of 2 metres of close board fencing in order to ensure that unacceptable overlooking of neighbour amenity space is not possible.

Access privacy issues - The objector also states that refuse/emergency and private vehicles will be an invasion of privacy. The location of the access is considered to have been approved by way of the site location plan of the outline application and as such, the principle of development in this respect is considered to have been found acceptable, with only the detail approved under this application.

Public open space - Objectors have stated that the original indicative plans showed an area of open space which is no longer part of the proposal. The scheme is too small to require on-site provision of public open space in accordance with the Council's adopted open space standards. The layout submitted at outline stage was indicative only, with the matter of layout reserved for later consideration. As such, this earlier layout holds no weight in the determination of this application.

Drainage – An objector has raised concern regarding the drainage method and whether it is suitable for the location, raising concern that the proposal will result in offsite flooding. The LPA are content with the information submitted, which is considered to be acceptable. Given the comments from the drainage team, that the scheme is acceptable, it would not be reasonable for the LPA to resist the application on this basis.

Gates – The LPA note the concern of the Parish in relation to the creation of a gated community, however in general, gates are permitted development and residents would be free to erect gates providing they did not exceed 2.0 metres in height within 2.0 metres of the highway. Notwithstanding this then gates are set back a significant distance from the highway and will not be prominent in wider views and as such the gated nature of the development will not be immediate apparent. In light of the above it is considered that it would not be reasonable to resist the proposal on its gated nature.

7 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 principle of development is sound and the proposal will not unacceptably harm the character of the area, the amenity of the occupiers of neighbouring dwellings, or highway safety; in accordance with policies LP01, LP2, LP13, LP16, LP17, P28 and LP32 of the Peterborough Local Plan 2019.

8 Recommendation

The case officer recommends that:

1. Reserved Matters approval is **GRANTED** subject to the following conditions; and
2. Conditions C6 (archaeology), C7 (fire hydrants), C8 (Arboricultural Method Statement) and C13 (Construction Management Plan) of outline planning permission reference 17/01902/OUT are either discharged in part, or replaced in accordance with the following conditions:

C 1 The development hereby approved shall be carried out in accordance with drawings:

BN/17/E
BN/20/D
BN/21/B
BN/18/E
BN/16/E
BN/09/C
BN/10/C
BN/07/C
BN/08/C
BN/13/E
BN/14/D
BN/12/E
BN/11/C
BN/19/E
BN/22/B
BN/23/A
BN/24/B
BN/04/C
BN/06/B
BN/05/B
External Levels 07-0135-003 P5
Fire Hydrants 07-0135-007 P4
Highways Entrance 07-0135-005 P1
Access and Section 07-0135-006 P1
External Works 07-0135-004 P3
Hard Landscaping BN/04/D

Reason: For the avoidance of doubt.

C 2 No development other than groundworks and foundations shall take place until samples/details of the following materials to be used in the external surfaces of the dwellings hereby approved have been submitted to and approved in writing by the Local Planning Authority:

- Walling (samples);
- Roofing (samples);
- Windows and doors, including garage doors and rooflights (details);
- Lintels and cills (details); and
- Rainwater goods (details).

The samples/details submitted for approval shall include the name of the manufacturer, the product type, colour (using BS4800) and reference number, and samples shall be made available for inspection on site. The development shall not be carried out except in accordance with the approved details.

Reason: For the Local Planning Authority to ensure a satisfactory external appearance, in accordance with Policy LP16 of the Peterborough Local Plan (2019).

C 3 Notwithstanding the submitted plans and the provisions of condition C5 of outline planning permission 17/01902/OUT, prior to first occupation of any dwelling hereby approved, a scheme of boundary treatments shall be submitted to and approved in writing by the Local Planning Authority.

The scheme shall ensure that the boundary treatment(s) to the southern and eastern boundaries of the application site, shall be no less than 2 metres in height.

The approved boundary treatments to the eastern boundary of the site shall be implemented prior to first occupation of any dwellinghouse, and all other boundary treatments shall be implemented prior to first occupation of the dwellinghouse to which they relate.

Reason: In order to protect and safeguard the amenities of adjoining and future occupiers, in accordance with Policy LP17 of the Peterborough Local Plan (2019).

- C 4 Notwithstanding the provisions of Part 2 Class A of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no fences, gates, walls or means of enclosure shall be erected within the site unless expressly authorised by this approval or any future planning permission.

Reason: In order to protect and safeguard the amenity of the area and neighbouring occupants, in accordance with Policies LP16 and LP17 of the Peterborough Local Plan (2019).

- C 5 Notwithstanding the provisions of condition C5 of outline planning permission reference 17/01902/OUT, the soft landscaping scheme shown on drawing numbers 05B and 06B, with the exception of the hedge along the western boundary of the site, shall be carried out no later than the first planting season following occupation of the dwelling to which it relates, or final occupation of the final dwelling for any communal landscaping.

Any trees, shrubs or hedges forming part of the approved landscaping scheme (except those contained in enclosed rear gardens to individual dwellings) that die, are removed or become diseased within five years of the implementation of the landscaping scheme shall be replaced during the next available planting season by the developers, or their successors in title with an equivalent size, number and species to those being replaced. Any replacement trees, shrubs or hedgerows dying within five years of planting shall themselves be replaced with an equivalent size, number and species.

Reason: In the interests of the visual appearance of the development and the enhancement of biodiversity, in accordance with Policies LP16 and LP28 of the Peterborough Local Plan (2019).

- C 6 Notwithstanding the submitted plans and provisions of condition C5 of outline planning permission reference 17/01902/OUT, prior to first occupation of any dwelling hereby approved, a scheme for the strengthening of the hedgerow along the western boundary of the site shall be submitted to and approved in writing by the Local Planning Authority. The hedgerow planting shall take place in accordance with the approved scheme and prior to first occupation of the first dwellinghouse.

Any plants forming part of the approved hedge strengthening scheme that die, are removed or become diseased within five years of the implementation of the scheme shall be replaced during the next available planting season by the developers, or their successors in title with an equivalent size, number and species to those being replaced. Any replacement plants dying within five years of planting shall themselves be replaced with an equivalent size, number and species.

Reason: In the interests of the visual appearance of the development and the enhancement of biodiversity, in accordance with Policies LP16 and LP28 of the Peterborough Local Plan (2019).

- C 7 The areas shown on the submitted drawings/plans, including those within garages, for the parking of vehicles shall be made available for that use prior to first occupation of the dwelling to which they relate. Visitor parking spaces shown on the submitted plans shall be made available for that use prior to first occupation of the last dwelling. Thereafter, those areas shall be retained solely or the parking of vehicles in connection with the dwelling to which they relate, or the parking of visitors in perpetuity.

Reason: In the interests of highway safety, in accordance with Policy LP13 of the Peterborough Local Plan (2019).

- C 8 The areas shown on the submitted drawings/plans for the manoeuvring and turning of vehicles shall be made available for use prior to first occupation of the dwelling to which they relate. Thereafter, those areas shall be retained solely for the manoeuvring and turning of vehicles in connection with the development hereby approved in perpetuity.

Reason: In the interests of highway safety, in accordance with Policy LP13 of the Peterborough Local Plan (2019).

- C 9 Notwithstanding the provisions of condition C13 of outline planning permission reference 17/01902/OUT, the development hereby approved shall be carried out in accordance with the submitted Construction Management Plan (dated 11.04.19) with the exception of the hours of construction contained therein.

No construction, including deliveries to the site, shall take place outside the hours of 8:00 to 18:00 Monday to Friday and 08:00 to 12:00 on Saturdays. No construction or deliveries shall take place on Sundays or Public/Bank Holidays.

Reason: In order to protect and safeguard the amenities of the adjoining occupiers and in the interests of highway safety, in accordance with Policies LP13 and LP17 of the Peterborough Local Plan (2019).

- C10 The surface water drainage scheme shown on drawing numbers 07-0135-008 Revision P01, 07-0135-006 Revision P03, 07-0135-002 Revision P03 and contained within the document 'Surface Water Drainage Calculations' (dated 11 June 2019) shall be carried out in full prior to first occupation of the dwelling to which it relates or first use of the shared access/driveways, whichever is applicable.

Reason: To ensure that the development is not at unacceptable risk from or poses unacceptable flood risk elsewhere, in accordance with Policy LP32 of the Peterborough Local Plan (2019).

- C11 Before the development hereby approved is first occupied, the rear windows of Plot 1 serving en-suite and landing shown on drawing number BN/17/D shall be fitted with obscure glazing to a minimum of Pilkington Level 3 and non-opening unless those opening parts are more than 1.7 metres above the floor level in the room in which they are installed. The obscure glazing shall be continuous and shall not incorporate any clear glazing features. It shall subsequently be retained as such in perpetuity.

Reason: In the interest of residential amenity; in accordance with Policy LP17 of the Peterborough Local Plan (2019).

- C12 Notwithstanding the provisions of Part 1 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no domestic enlargements shall be undertaken to any dwelling hereby approved other than those expressly authorised by any future planning permission.

Reason: To preserve the character of the area, in accordance with Policy LP16 of the Peterborough Local Plan (2019).

- C13 Notwithstanding the provisions of Part 1 Classes B and C of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no windows shall be inserted into the front roof slopes of Plots 2-5 or to the rear of Plot 1 other than those expressly authorised by this approval or those expressly authorised by any future planning permission.

Reason: To preserve the character of the area and in the interests of neighbour amenity, in accordance with Policies LP16 and LP17 of the Peterborough Local Plan (2019).

Copy to Councillors Allen, Brown and Simons

Appendix 1 – Committee Report for 17/01902/OUT

Planning and EP Committee

Item No. 3

Application Ref:	17/01902/OUT
Proposal:	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
Site:	Land on the west side of Guntons Road, Newborough, Peterborough
Applicant:	Mr & Mrs B GREGORY
Agent:	Mr J S Dadge Barker Storey Matthews
Site visit:	1th October 2017
Referred by:	Cllr Nigel Simons
Reason:	Supports application as the application has addressed the appeal decision.
Case officer:	Mrs J MacLennan
Telephone No.	01733 454438
E-Mail:	janet.maclennan@peterborough.gov.uk
Recommendation:	REFUSE

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

Site and surroundings

The application site is approximately 0.42 hectares (44m x 95m), rectangular in shape and is located on the western side of Guntons Road and to the rear of nos. 78 to 90. The application site is primarily a large grassed area/paddock and part of the domestic garden to no 90 Guntons Road.

The site lies within the Newborough settlement boundary approximately 70m from the southern entrance to the village. The site is bounded by residential development to the east comprising both bungalows and two storey dwellings; to the north and south the site abuts rear gardens to properties fronting Guntons Road, with agricultural fields to the west. There is a drain/ditch parallel to the western boundary.

Access to the site would be gained via an existing access off Guntons Road which is also used by the host dwelling. There is a further independent access off Guntons Road serving the host dwelling.

Proposal

The application seeks outline approval for the erection of 5 no. self-build detached bungalows (with refuge in the roof space). Access is to be committed at this stage with all other matters reserved to a later stage.

Two revisions have been submitted since the initial submission reducing the number of bungalows from 8 to 6 and now reducing the number to 5. There would be no first floor accommodation.

Re-consultations have been undertaken with neighbouring properties.

2 Planning History

Reference	Proposal	Decision	Date
15/00941/OUT	Erection of 2 x dwellings	Refused	12/08/2015
13/01638/WCPP	Removal of conditions C1, C3 and C4 of planning permission 05/01592/FUL - Change of use of land to residential garden (retrospective)	Permitted	17/12/2013
05/01592/FUL	Change of use of land to residential garden (retrospective)	Permitted	09/01/2006
05/00622/FUL	Change of use of land from open countryside to residential garden (retrospective)	Refused	19/09/2005
02/00405/OUT	Erection of two dwellings with garages	Permitted	09/07/2002

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 6 - Backland Development

Inappropriate development of residential gardens where harm would be caused to the local area should be resisted.

Section 6- Delivering a Wide Choice of High Quality Homes

Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.

Section 10 - Development and Flood Risk

New development should be planned to avoid increased vulnerability to the impacts of climate change. Inappropriate development in areas of flood risk should be avoided by directing it away from areas at higher risk. Where development is necessary it shall be made safe without increasing flood risk elsewhere. Applications should be supported as appropriate by a site-specific Flood Risk Assessment, a Sequential Test and, if required, the Exception Test.

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.

CS02 - Spatial Strategy for the Location of Residential Development

Provision will be made for an additional 25 500 dwellings from April 2009 to March 2026 in strategic areas/allocations.

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.

CS17 - The Historic Environment

Development should protect, conserve and enhance the historic environment including non-scheduled nationally important features and buildings of local importance.

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)

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.

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.

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.

Peterborough Flood and Water Management SPD (2012)

This supplementary planning document (SPD) focuses on managing flood risk and the water environment in and around new developments in Peterborough. In order to reduce the likelihood and consequences of flooding, it is necessary that development is located in a safe environment.

4 Consultations/Representations

Archaeological Officer – No objection. The area is low lying and may have been unsuitable for occupation from the later Bronze Age period until systematic drainage of the Fens in the post-medieval period. However, cropmark remains associated with prehistoric funerary activity and undated domestic/agricultural activities are recorded to the north, south and west of the subject site. Some of these remains may extend into the proposed development site. Given the uncertainty surrounding the archaeological potential of the site, an evaluation by trenching should be secured by condition.

PCC Pollution Team - No comments received

PCC Peterborough Highways Services – No objection. The principle of this development in traffic terms is acceptable to the local highway authority (LHA) however requests improvements to be made to the access for the benefit of the new residents and the community in general. The access width at 5.5m is in line with PCC's requirements. A short length of new footway should be provided either side of the access to allow pedestrians to cross from the opposite footway away from the driveway so as to avoid potential conflict with vehicles.

The existing access to no. 90 must be closed off and access to this house should be solely from the shared drive. The development should be designed to accommodate refuse collection vehicles including a turning head. Visibility splays should be indicated on the drawing. These should show vehicle to pedestrian visibility splays of 2m x 2m within the site on each side of the access and vehicular visibility splays of 2.4m x 43m formed along the carriageway edge.

The revised drawing takes on board the highway concerns. There are no highway objections subject to relevant conditions.

Highways England - No objection

Environment Agency – The Local Planning Authority needs to assess the appropriateness of the proposed development in this location from a flood risk perspective by applying the Sequential and Exception Tests. Should the proposed development satisfy the requirements of the Sequential and Exception tests, we would have no objection to the application subject to the inclusion a condition regarding the FRA.

Health & Safety Executive - Do not advise against planning permission being granted.

Cadent Gas - No comments received

Newborough & Borough Fen Parish Council - Recommend that the density is reduced to allow larger amenity area. Recommend no windows in the refuse space to avoid overlooking. Parking is an issue on Guntons Road. Question why a refuge is needed if there is no risk of flooding.

Revised comments: While the Parish Council agrees there should be a minimum 5.5m access width requirement, the Parish Council would like to ensure the road is wide enough for cars to pass easily when vehicles are parked on the road outside the properties as the Parish Council already receive complaints with regard to Williams Close parking. Properties are already being built behind Guntons Road and so I see no comment needed there. It should be built to a standard that freight vehicles can collect bins from the premises rather than them being deposited at a point on or near the highway.

We would request that no upper floor window overlook/look into other premises.

Who would be responsible for the amenity land. Could this area be developed for more car parking?

There are also concerns regarding the capacity at the local primary school.

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North Level District Internal Drainage Board – No objection. The Board's Mossops Drain forms the western boundary to the development and the Board's byelaws prevent any construction within 9m of this watercourse. An application to relax this byelaw together with an application to discharge surface water in to the drain will be required. A development levy will be payable.

Cambridgeshire Fire & Rescue Service – No objection. Requests that provision is made for fire hydrants by condition or by a S106 agreement.

Open Space Officer - Having reviewed the newly submitted Layout plan indicating the reduced unit number to 6 (which would not normally lead to a S106 Agreement) clarification is needing to be made regarding the issue of "Amenity Space" & whether this is to be Public Open Space (POS) before the application proceeds any further. At this point it is also to be noted that if the 3 areas are to be Amenity Space or POS they are to be combined into one useful recreational area, thus requiring a redesign of the current layout.

PCC Tree Officer - The site is outside of a Conservation Area and there are no trees protected by a TPO in the vicinity. No arboricultural information supports the application. Within the DAS it is stated that an AIA will be produced at reserved matters. It is stated that the 'trees on the boundary and adjacent to the site are unlikely to be impacted upon'. In my opinion the current layout is sympathetic to the boundary trees and without any information to outline the contrary it is assumed that they will all be retained. It is noted that the majority of the trees are low quality and/or don't have the public amenity to merit protection with a TPO.

An indicative plan for tree removals and retentions would be helpful to acknowledge to the public and planning team which the likely outcome of the proposal will be. Further to the information requested above there is no objection to the proposed layout. Further to what is described in the DAS if the application is successful it is appropriate that an arboricultural method statement and tree protection plan is produced at reserved matters.

Waste Management - No comments received

Local Residents/Interested Parties

Initial consultations: 11
Total number of responses: 10
Total number of objections: 8
Total number in support: 1

Cllr Nigel Simons - I have been asked to have the above application recommended to the planning committee, should it not be approved. I note the original application was turned down by a planning appeal. I also note the new application has changed somewhat, village boundary has changed. The new application has taken into account comments from the Inspectorate.

Cllr Steve Allen – I have been contacted by a number of residents affected by the proposed development. Those living in close proximity have a number of concerns. Should the applicant be recommended for approval I request it is referred to planning committee.

7 letters have been received following consultation on the revised scheme of 5 bungalows. The following comments have been made:

- Due to the soil/proximity to farmland which has low bearing capacity the buildings would require substantial and significant foundations
- The density of the development would create a risk of further subsidence.
- No 86 is incorrectly shown on the plan; the development would result in overlooking to the property and garden of no. 86
- Article 8 of the Human Rights Act states that a person has the substantive right to respect for their private and family life and this includes the protection of the countryside also.

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- The view across the countryside would be tarnished by the development
- The new footpath would lead to loss privacy to no. 86 Guntons Road
- The development would be clearly seen from the open countryside
- The density is not in keeping with the surrounding character
- The plots would be 6-7m apart which would negate the community feel being a high density compressed cul de sac
- The field is the wrong shape for the development
- I use my garage for counselling and the development would jeopardise my business and impact on my clients. My clients need peace and quiet and noise from the building works/future occupiers would be unsettling, distracting and stressful for my clients.
- I can see that considerable concessions have been made with the revised scheme. This is probably the best we can hope for.
- I am hoping the planning committee still refuses the application.
- Our only concerns now are that the utility areas are maintained.
- Support the reduction from 8 to 5 dwellings.
- The development will fulfil a need specifically for this type of dwelling in the village.

The following comments were made on the earlier schemes:

- No. 86 Guntons Road has not been amended on the plan to show it as being closer to plot 6.
- First floor windows to plot 6 will overlook the rear bedroom windows of no. 86.
- The new footpath to the front boundary of no. 86 will have direct views into no. 86 and 88
- 6 bungalows with accommodation in the roof is too much and is still too close to no. 84
- Bungalow at no. 5 is still very close to our boundary; there are trees along the boundary but this may not always be the case
- We have poplar trees along the bottom of this boundary which have long reaching roots
- The number of plots should be reduced to reflect the surrounding density.
- I use my garage for counselling and the development would jeopardise my business and impact on my clients. I am passionate about what I do and believe I'm doing my bit to help keep the NHS waiting lists down
- The new footpath would have parking issues for clients
- The sights, sounds, smells from building work and noise, light pollution, lack of privacy would be unacceptable to me as a counsellor due to client's sensory issues
- I am devastated by the thought of it all it makes me feel quite ill
- I will not feel safe knowing that people will be able to climb into my garden and home.
- Loss of light/sunlight
- Overlooking to my garden and bungalow
- Impact of dust and fumes and pollution from traffic
- We would have to erect a high fence to replace the existing low wire fence to maintain privacy
- We would overlook 8 properties and impact on their privacy
- The development would impact on my health (asthma) due to pollution of air quality
- Article 8 of the Human Rights Act states that a person has the substantive right to respect for their private and family life and this includes the protection of the countryside.
- The development would be detrimental to our well being and comfort due to noise and poor impact on views.
- The development would not provide adequate living space
- No reports have been undertaken on the quality of the ground for building and effect on neighbouring properties.
- There could be a compaction of soil causing the properties to have a downward movement taking them below the 30cm above ground level.
- How will the amenity spaces be maintained?
- Small areas of amenity land are inadequate
- The gardens are irregular in shape and do not correlate with surrounding properties.
- The development would be visible from St Martins Road/Middle Road
- The new properties would be constantly visible to the existing occupants

- I would not want to tarnish the view across the country with a high density development.
- Loss of outlook to the countryside
- The land was not meant to be for residential use and has always been green belt, use for grazing which is why we bought our house
- Loss of value and saleability of our property
- There are more suitable parcels of land available within the village envelope that could meet housing target.
- The land is outside of the village boundary
- The land has been protected by being outside the village envelope until 2012
- We bought the house in the knowledge that the land could not be building on.
- Planning permission was previously refused for two dwellings behind 90 Guntons Road due to flood risk/lack of any benefit to the wider community. The same arguments apply.
- Spoiling the beautiful green field which houses bats and natures wildlife.
- I have lived here for 47 years enjoying the privacy and watching the wildlife
- The amended plans appear to have different measurements and the width is now 3m wider (how has this been gained)
- The timescale for re-consultation did not allow time for me to attend the PC meeting
- The developer and Mr Gregory received far more advanced warning of the PC meeting which allowed their interests to be put to the meeting without objection by neighbours
- The access would be directly opposite Reedmace Close
- The development would result in a traffic hazard
- Potential for residents and their visitors to park additional vehicles along the road could lead to further obstruction
- Waste vehicles would be required to use this turning hearing
- The main road has too much use and needs constant repairing
- The access would be extremely tight for emergency vehicles/delivery vehicles
- This is not a sustainable location and most people would invariably use private cars.
- The access road to the development is claimed to be 5.5m it is actually 4.5m. The garage to no. 88 Guntons Road would have to be demolished to achieve 5.5m
- The turning head is obstructed by 3 lots of parking bays
- The field used to be water logged before the farmer installed drainage pipes which drain to the dyke
- The applicant has said he would be happy with as few as four dwellings (including the two for his family) to achieve his plans
- We cannot assume that this development would support the community strategy of providing health and social care closer to home
- The community strategy is focused on building stronger communities the development does not bring any guaranteed new support networks to the community
- We would cautiously accept the four dwellings provided they are more than 9m from our boundary and that they are bungalows.
- A condition should be imposed for fencing to a height of 2.4 metres to ensure security.
- Support application, but the bungalow at plot 6 is too close to our boundary
- 5/6 bungalows would be better
- No objection. The development would not be intensive and disturbance from through traffic would be minimal
- The building of bungalows would be low profile and preserve a sense of openness
- The development would fill a need for this type of dwelling as people age
- The development would complement the village

5 Assessment of the planning issues

Background

Outline planning permission was refused in 2015 for the erection of 2 dwellings on land to the rear of 90 Guntons Road (ref. 15/00941/OUT). The proposal sought permission for a retirement home

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for the applicants' parents and an additional dwelling for the applicants' own use.

The application was refused on flood risk grounds. The site is located within flood zone 3 and on land at the highest risk of flooding. Residential development is classed as 'more vulnerable' development. The application had failed to demonstrate, by way of a Sequential Test, that there were no more sequentially preferable sites available for the proposed development.

In addition, it was not considered that the proposal would provide wider sustainability benefits to the community that would outweigh the risk of flooding as required by the Exception Test. The proposal therefore failed to meet both the Sequential and Exception Test requirements with regards to flood risk and was 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).

The applicant appealed the decision of the Local Planning Authority.

Additional information was provided by the applicant at the appeal which included information in relation to the sequential test regarding the availability of alternative sites not at risk of flooding within villages with the same designation - 'Limited Growth Villages', as Newborough. This concluded that there were no suitable sequentially preferable sites, allocated or potentially allocated, available within limited growth villages that could accommodate the proposed development.

In addition market research found that there were no plots of land on the market within the limited growth villages with planning permission that could accommodate the proposed development. At the time of the appeal the Local Planning Authority was satisfied that information met the criteria in terms of the Sequential Test and that the Sequential Test had been met.

As well as the requirement to meet the sequential test Paragraph 102 of the Framework advises that the Exception Test must also be passed. In order to do so the development must demonstrate there are wider sustainability benefits to the community to outweigh flood risk; and a Flood Risk Assessment (FRA) must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and where possible will reduce flood risk overall.

In respect of the second part of the Exception Test, the development proposed that the finished floor levels would be higher than those of the adjacent properties and would be designed to be flood resilient. The Environment Agency raised no objection and the Inspector was satisfied that the development would be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere.

In respect to the first part of the Exception Test the Inspector considered that whilst the proposal would lead to benefits to the appellants and their parents, these would not extend to the communities of Peterborough. The Inspector did not consider the scheme to score well against the outcomes in the Community Strategy or that it would have a positive impact on them. The Inspector concluded that the wider community benefits were insufficient to outweigh the flood risk. This will be discussed further below.

The appeal application was subsequently dismissed.

The applicants have lived at the property for 13 years. The scheme as originally submitted sought permission for up to 8 bungalows, with refuge accommodation in the roof space. The scheme has been amended and now proposes 5 bungalows. One bungalow will be for the applicants' aged parents who they would like to relocate from Ellington near Huntingdon to enable the applicants to provide care for them. One of the bungalows would be for the applicants and the remainder will be sold as self-build plots.

The Principle of Development

The site lies within the village settlement boundary of Newborough which is designated as a 'Limited Growth Village' under policy CS1 of the Adopted Peterborough Core Strategy DPD. While inclusion within a village envelope is the first requirement for housing in villages, this does not automatically support residential development. Consideration is given to the planning constraints as in the case with any development.

The site was proposed under the draft development plan 2012 as a housing allocation site. The site was rejected on flood risk grounds.

The site was also rejected as a site allocation for the new local plan on flood risk grounds. (NBF004 H). The site was subsequently withdrawn from the Peterborough Local Plan (Proposed Submission Version) as an allocation as 9 dwellings is below the threshold of 10.

The applicant states that whilst the site is not a specific site allocation it is reasonable to assume the site is appropriate for development otherwise there would have been no change to the village envelope boundary.

Members should also be aware that as part of the review of the development plan – the proposed submission version (Jan 2018) the village envelope has been re-drawn following consideration of flood risk constraints and therefore within the emerging local plan, this site would fall outside of the village envelope. It is accepted that this is not a reason to refuse the scheme currently under consideration as the proposal accords with the adopted development plan at the present time.

Flood Risk

Notwithstanding the location of the site being within the village settlement boundary the site lies within Flood Risk Zone 3 as defined on the Environment Agency's Flood Risk Maps. No residential development in these areas can be permitted unless the sequential test and exception test as advised under policy CS22 of the Adopted Peterborough Core Strategy DPD and section 10 of the National Planning Policy Framework are passed.

Sequential Test

A sequential test has been applied to the development and following the request by the case officer additional sites that were put forward for allocated housing sites for the new local plan within the Site Evidence Report 2016 and rejected by the City Council, were also considered. This concludes that there are no suitable sequentially preferable sites, allocated or potentially allocated sites currently available within limited growth villages that could accommodate the proposed development.

The applicant has advised that an extensive internet search (including the local land agents) was carried out on the 19th September 2017; including internet and local agents, Zoopla, Prime locations - housing land and Rightmove land. The agent acting on behalf of the applicant also used their market intelligence and connections to establish if there were comparable sites available in accordance with the search parameters. Within this search no land was identified as being suitable and available within any of the target villages identified above.

It is considered that the sequential test is therefore passed.

Exception Test

The Exception Test ensures that new developments which are needed in medium or high flood risk areas will only occur where flood risk is clearly outweighed by other sustainability factors and the development will be safe for its lifetime, taking climate change into account.

The Peterborough Flood and Water Management Strategy (SPD) (2012) advises the use of the outcomes set within the Greater Peterborough Partnership Sustainable Community Strategy 2008-

21 as the framework for demonstrating whether or not wider sustainability benefits can outweigh flood risk. There are sixteen outcomes (listed on page 11 and 12 of the Strategy) against which the development should be scored. These outcomes are those that Peterborough wishes to see delivered in order to benefit its communities. The Sustainable Community Strategy has been adopted by the city council and its partners as the overarching and guiding strategy for Peterborough.

Referring back to the former appeal decision (ref. 15/00941/OUT). The former scheme was a small piece of land and the proposal was for two bungalows to provide accommodation for the applicants and their elderly parents. The Inspector acknowledged the proposal would have allowed the applicants' parents to be cared for whilst maintaining a degree of independence and a good quality of life. The applicants claimed that the proposal would reduce the burden on health and social care services, the local authority and the wider community. In addition, the scheme would support vulnerable people given the applicants' parents progression in age and potential for failing health.

The inspector considered that nothing had been provided in support of the appeal indicating what the care needs of the parents were, or the demands they currently put on the local authority or are likely to in the future. As such there was no evidence to suggest that health or social care would necessarily be saved as a result of the appeal scheme either now or in the future.

The Inspector went on to say that there was nothing to suggest that the future occupiers of either dwelling are affected by disadvantage or disability or that they are, or are likely to become, vulnerable. Furthermore, the Inspector was conscious that the occupation of the proposed houses by the applicants and their parents or by other occupants who are elderly, vulnerable or in need of care cannot be assumed or ensured in the long term; and that it is not normally appropriate to impose conditions to limit the benefits of the planning permission to a particular person or group of people and that *'planning permission runs with the land and it is rarely appropriate to provide otherwise'*.

The Inspector was therefore not convinced that the scheme's contribution to improving health and supporting vulnerable people (Community Strategy outcomes 1 and 2) would be significant.

The current application is supported with a letter from the applicants' parents' (Mr and Mrs Murden) doctor which explains their health needs. The letter supports the urgent need for planning permission for a 'mobile home' or 'single storey extension' suitable for the parents. The letter states that the applicants' mother's care needs *'are unpredictable and she pretty much needs the availability of somebody to care for her 24 hours a day, which means it is ideal for her daughter to be on site, although at times she is perfectly capable of being independent'*. Mr Murden, who used to be her primary carer is now suffering ill health also and finds it difficult to cope when Mrs Murden is unwell. The letter goes on to state *'if they were not to be allowed a mobile home on Mr and Mrs Gregory's site then the alternative would probably be residential care which of course would be very much more costly to the local authority'*.

The application states that the development would not only benefit the applicants' parents but also the wider society and that bungalows are a most appropriate form of development for older residents. The application states that the scheme would provide modern bungalow accommodation that is not provided elsewhere in Newborough or in the other Limited Growth villages.

It goes on to state that *'there is increasing concern about the isolation of, and care for the elderly in our society. The benefit of being in close proximity to family is recognised as improving longevity and quality of life and reducing the demands on the NHS and social services. This is certainly something Government and Peterborough City Council are cognisant of in developing new social services policy based around care at home and in the community'*.

It is acknowledged that the provision of accommodation for the applicants' parents would provide an opportunity for care to be provided by the applicants. However this could also be provided in the form of a temporary dwelling, annex or by an extension to the host dwelling at no. 90.

The scheme has now been reduced to 5 bungalows; two of which would be occupied by the

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applicants and the applicants' parents. Three would be available as self-build plots. However as stated by the Inspector considering the former scheme the future occupants of the bungalows cannot be assumed or ensured in the longer term and therefore neither can provide any benefit to the community in this regard. It would not be appropriate to condition the occupancy of the development.

In terms of building community cohesion (outcome 7) the application states the development would build community cohesion with a mix of new residents who can be varied in composition given the accessible nature of the dwellings.

Under the former scheme the Inspector considered that there was nothing to suggest this could not be achieved by development on a site that has a lesser risk of flooding; and that given the scale of the development it would do little to create a strong and supportive community or to build community cohesion. It is accepted that the proposal would provide an additional 5 dwellings compared with the former scheme of 2 dwellings however, it is considered that the scale of the development would do little towards building community cohesion.

The application states:

- that the quality development would build pride in Peterborough (outcome 8). It is not considered that the development would make a significant contribution to this objective.
- that the development would provide open space / amenity space making Peterborough cleaner & greener (outcome 9). An area of open space is proposed on the indicative layout however this is to be private to the development; again it would not exceed the policy requirement for residential development and would therefore not be a significant contribution to making Peterborough cleaner and greener as recommended by outcome 9; and it is already grassed land.
- that the development would create a safe environment with a single point of access and good surveillance throughout. This is accepted. The proposal would allow a good level of surveillance of the elderly parents, however it would do little to contribute towards *'Creating a safe, vibrant city centre and sustainable neighbourhood centres – so that people have more diverse and improved places to visit and enjoy'* (outcome 13).
- that the proposal would create jobs in the building process and new residents will contribute to the local economy by increasing potential spending within the village (outcome 14). It is also noted that the development would be 'self-build' plots. Given the small scale development its contribution to the local economy and increasing economic prosperity in the area would be minimal.
- that the development would conserve natural resources by utilising land within the village envelope rather than green field sites beyond it. However, development would not be permitted outside the village boundary.
- that the development would support public transport services by providing additional residents who can use of sustainable transport. As with the former scheme the Inspector's view on this matter was that the future occupants' use of the private car could not be ruled out. It is not considered that the development would significantly increase the use of sustainable forms of transport.

Having assessed the stated wider sustainability benefits of the proposal it is not considered that the proposed benefits of the development would outweigh the risk of flooding as required by the Exception Test.

Flood Risk Assessment

A site specific Flood Risk Assessment (FRA) supports the application. The FRA has been revised

since the initial submission and now proposes that the finished floor levels would be 500mm above the existing ground level and an additional 300mm of flood resilient construction above the finish floor level and a safe refuge in the roof space of each dwelling. The Environment Agency (EA) advises that should the proposed development satisfy the requirements of the Sequential and Exception tests there is no objection to the proposal subject to the measures contained within the FRA being secured by condition.

It is considered that the dwellings could be designed to ensure they are safe for their lifetime in terms of flood risk without increasing flood risk elsewhere.

It is accepted that there is a need for bungalow accommodation which would provide a specific housing need particularly for the elderly and people with disabilities however due to the flood risk location the development would only be acceptable with safe refuge within the roof space. This requirement does raise questions as to whether this would be suitable for the proposed occupiers and the need to access the roof space in extreme flood events. As stated above it is not considered appropriate to impose conditions limiting the occupancy of the dwellings and therefore this application should be considered as regular housing development.

Furthermore, notwithstanding the failure to demonstrate the wider community benefits as required by the Exception Test, if Members are minded to approve this application there is the potential for other sites within areas at risk of flooding, to be put forward for development. It is therefore considered that this would set an undesirable precedent which would make subsequent development proposals difficult to resist.

Highway Implications

There is an existing access off Guntons Road which would serve the proposed development. The width of access would be 5.5m throughout the development which would allow turning provision for large vehicles including refuse collection vehicles. This is an outline application which would agree to access with all other matters reserved to a later stage. It is considered that there would be provision for refuse vehicles and larger vehicles to enter the site, turn and leave in forward gear. The full details would be agreed at the reserved matters stage. As this would be a private road if PCC vehicles were to enter the site they would need to sign an indemnity with the land owner removing any liability for damage to the access road.

Concerns have been made regarding the access and that there is insufficient space to accommodate an access 5.5m in width. The width of access would be secured by condition.

There is currently an independent access serving the host dwelling at no. 90. The Local Highways Authority (LHA) has requested that this access is closed off as it is too close to the access serving the development due to the intensification of use.

The LHA has also requested a short footway is provided either side of the access road to provide safer crossing points for pedestrians. An amended plan has now been submitted showing these footways.

The access plan also indicates available vehicle to pedestrian visibility splays.

The indicative plan, now amended for 5 bungalows, demonstrates that there would be adequate provision of parking space to serve the development. It is noted that the Parish Council and others raised concern regarding the lack of parking space and whether more could be provided. Again this will be agreed at reserved matters stage.

The proposal would provide a safe and convenient access to the development and would accord with policy PP12 of the Adopted Peterborough Planning Policies DPD.

Impact on neighbouring amenity

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The initial scheme proposed 8 no bungalows which was then reduced to 6 and finally to 5. The amended scheme situates the dwellings at a distance of 20m to the dwellings fronting Guntons Road; with the exception of plot 5 which is located 10m to the shared boundary, however this plot has a side elevation towards the eastern boundary. It is considered that the separation distance to existing neighbours as shown on the illustrative plan would be acceptable.

The neighbour most likely to be affected by the development would be at No 88, as the access runs alongside this plot about 2.5m from the side of the bungalow. There is a low fence along this boundary at present and the neighbour's driveway is immediately alongside the fence. The main windows of the bungalow face front and rear. The number of dwellings has now been reduced to 5 which would have a much lesser impact on the occupiers of this dwelling. It is considered that subject to the erection of a suitable boundary treatment to the north of the access the impact on the occupiers of this dwelling would not be unacceptable.

A number of neighbouring residents have raised concern regarding overlooking due to the close proximity of the dwellings to the rear boundaries of these properties. The revised scheme has positioned the amenity area and the access road between the rear boundaries of properties fronting Guntons Road and plots 2, 3 and 4 would be set back 20m from the eastern boundary providing a minimum back to back separation distance of 36m.

The appearance of the dwellings is reserved to a later stage however a condition would be appended to this decision to ensure any first floor windows or windows within the roof would be orientated away from neighbouring properties.

It is noted that comments have been made regarding the indicative layout plan and that the footprint of the existing dwellings fronting Guntons Road is not a true reflection of what is on the ground. This is accepted however, it is considered that the separation distance between these properties and the development is acceptable and would not lead to overlooking or loss of privacy to the occupiers fronting Guntons Road.

The development is for bungalows with no accommodation within the roof space other than as a refuge in an extreme flood event. No designs or appearance of the dwellings are known at this staged. However should the application be approved, then the details of first floor windows and potential overlooking would be considered at reserved matters stage.

Reference has been made to the new footpath which due to the land levels will have direct views into the front of properties no.88 and no.86. These properties are set in to their plot by a minimum of 10m. It is accepted that the land levels at the point of the highway are higher than the dwellings. There is currently no footpath along the eastern side of Guntons Road. The short footpath is required for the safety of pedestrians crossing from the western side of Guntons Road to the site. The relationship of the position of the dwellings and that of the road would be similar to those on the western side of Guntons Road. Whilst there is the potential for views into the ground floor windows of these dwellings this would be the same if people were walking on the road. Due to the increased level of activity at the front of properties the level of amenity is generally lower than at the rear. The set back distance is considered to be acceptable and given the relatively short footpath it is likely that this would only be used infrequently by the occupiers of the development and is acceptable.

Concern has been raised by one of the neighbouring occupiers who runs a counselling service from an outbuilding in the rear garden of the property. There is concern regarding the noise and disturbance arising from the site both during construction and by the future occupants due to the sensory issues of the clients. Unfortunately the Local Planning Authority could not refuse an application on this basis. It is accepted that there would be some disturbance during the construction phase however, this would be for a relatively short time. An informative would be appended advising the applicant of what are the normal and reasonable working hours for construction.

It is considered that the site could accommodate the development without compromising the amenity

of the occupiers of existing neighbouring occupiers; hence the proposal would accord with policy PP3 of the Adopted Peterborough Planning Policies DPD and policy CS16 of the Adopted Peterborough Core Strategy DPD.

Residential Amenity

The dwellings would have a good level of private amenity space, adequate parking provision and would be laid out to achieve a good level of internal space with natural lighting.

An outdoor shared amenity area is indicated on the illustrative plan which would also provide a separation between the development and the existing dwellings in Guntons Road. This space would not be adopted by the city council and the landscaping details of the amenity area and the maintenance of it would be secured by condition or as part of the reserved matters application.

The indicative plan demonstrates that the site could accommodate 5 no. bungalows whilst providing a satisfactory level of amenity for the future occupiers. The proposal therefore accords with policy PP4 of the Adopted Peterborough Planning Policies DPD.

Visual Amenity

The application is at outline stage and therefore no details have been submitted regarding the design and appearance of the dwellings. The dwellings would be primarily single storey with refuge accommodation within the roof. Most of the development would not be directly visible from Guntons Road and whilst there would be views of the development from the east, along St Martins Road and Middle Road it is not considered that the development of 5 bungalows would adversely impact on the visual amenity of the area. The proposal would therefore comply with policy CS16 of the Adopted Peterborough Core Strategy DPD.

Landscape Implications

The site is not located within a Conservation Area and there are no trees protected by a TPO in the vicinity. No arboricultural information supports the application. The revised scheme has positioned the dwellings further from the eastern boundary and hence near to trees on third party land. It is unlikely that any trees to the site boundaries would be affected by the development. An Arboricultural Method Statement and Tree Protection Plan would be required at reserved matters stage or secured by condition.

It is not considered that proposal would have any significant landscaping or biodiversity implications and would accord with policy PP16 of the Adopted Peterborough Planning Policies DPD.

Archaeology

The area is low lying and may have been unsuitable for occupation from the later Bronze Age period. However, cropmark remains associated with prehistoric funerary activity and undated domestic/agricultural activities are recorded to the north, south and west of the subject site. Some of these remains may extend into the proposed development site. Due to the uncertainty it is recommended a scheme of archaeological investigation is secured by condition.

Human Rights Act

A neighbour has referred to Article 8 of the Human Rights Act stating that '*a person has the substantive right to respect for their private and family life and this also includes the protection of the countryside*'. It is not considered that the development would impinge on the private and family life of any of the occupiers neighbouring the site. It is not considered that the granting of the proposal would be incompatible with Article 8 of the Human Rights Act.

Equality Act

Reference is made to the Equality Act 2010 and the Public Sector Equality Duty (PSED). Under Section 149 of the Act there is a duty on the Local Authority in all decision making to have regard to the need to:-

- Eliminate unlawful discrimination, harassment and victimisation and other conduct which is prohibited by the 2010 Act.
- Advance equality of opportunity between persons who share relevant protected characteristics and those who do not.
- Foster good relations between the persons who share relevant protected characteristics

It is noted that the application, in part, is to provide accommodation for the applicants' parents in order that care can be provided on site by the applicants. However, there are alternatives that could be considered for example, an annex to the host dwelling and therefore whilst the Local Planning Authority is sympathetic to the applicants' needs the weight which can be given to the personal circumstances is limited in planning terms.

It is considered that due regard has been given to the personal circumstances of the applicant however the Local Planning Authority is only able to give the personal circumstances limited weight as it is considered that alternative measures could be found. The personal circumstances therefore do not outweigh the flood risk issues.

Misc

Comments received not covered in the above report

- Stability of the land: Concerns have been raised regarding the quality of the land and possible subsidence potential for the development and neighbouring properties. – Office response: This is something that would be picked up under the Building Regulations and appropriate foundations will be used.
- Amenity space: How will it be maintained? The amenity space would serve the 5 dwellings and would be privately maintained; the details would be secured by condition.
- The development would devalue our property – Officer response: This is not a material planning consideration
- Comments have been made about consultation with neighbours – Officer response: The Local Planning Authority has consulted with all neighbouring occupiers on all revisions and has therefore carried out its statutory obligation.
- The Parish Council has raised concern regarding the capacity of the local school. Officer response: Due to the scale of the development it is not considered that this would have a substantial impact on school capacity.

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 Outline Planning Permission is **REFUSED**

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

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more sequentially preferable sites available for the proposed development within the settlement or other settlements within the 'Limited Growth Villages' the proposal would not 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 is therefore 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).

Copy to Cllrs Allen, Brown and Simons

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).

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PE1 1JL

16 March 2018

Dear Mr Dadge

Application for Outline Planning Permission

Proposal: 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

Site address: Land On The West Side Of Guntons Road Newborough Peterborough

Your client: Mr & Mrs B GREGORY

Further in the above matter, please find enclosed our formal decision notice relating to your client's application for planning permission. Please be sure to remind your client that the scheme should be carried out in line with the approved plans. This will avoid the need for any enforcement action.

Making changes to the approved plans

In the event that you wish to change your proposal, please contact your case officer who will advise you on whether the change can be dealt with as a "non-material" or "material" amendment. In either case you will have to complete a form and provide fresh drawings.

Complying with the approved plans

We would like to draw your attention to 'precedent conditions':- these are conditions which require you to either do certain works or submit something for approval prior to starting any work. These conditions must be complied with. Please check your Decision Notice carefully and familiarise yourself with its requirements, allowing plenty of time for the conditions to be complied with before work commences. If these conditions are overlooked you may invalidate your consent, risk enforcement action being taken and may need to submit a further application.

In addition you should be aware that failing to build in accordance with the approved plans or properly discharging conditions often causes problems and delays if selling the property.

Reserved matters

Please note that all outstanding reserved matters must be submitted within 3 years of the date of this decision (or as otherwise stated in the appropriate condition). Failure to do so will mean that the application is out of time and the development cannot be lawfully commenced.

Complying with conditions

Please read the conditions attached to this permission carefully. Some conditions may require you to submit more information to us before you can start work.

17/01902/OUT

If further information is required you will need to submit a separate application together with the required supporting documentation. The relevant application form (PF27) for discharge of conditions can be downloaded from our application One Stop Shop at www.peterborough.gov.uk/planningoss

Please ensure that the required details are submitted in duplicate and if you are applying to discharge more than one condition that the supporting information is clearly separated and referenced to each individual condition.

There is a fee required with an application to discharge planning conditions, however this is chargeable per application rather than per condition, please ensure that this is enclosed as part of your application. For further information please visit our application One Stop Shop or contact Planning Services on 01733 453410.

Appeals against conditions

You should also be aware that the applicant has the right to appeal against any conditions attached to this Notice, please see <https://www.gov.uk/government/organisations/planning-inspectorate> for details. If you are concerned about any condition you should contact the case officer in the first instance for advice.

Your feedback on our service is welcomed

We are interested in finding out what you thought of our service and how we might make it better. To give us feedback please go to <http://consult.peterborough.gov.uk/portal/pscscs>.

Yours sincerely



Simon Machen
Director of Growth and Regeneration

17/01902/OUT



**NOTICE OF OUTLINE PLANNING
PERMISSION**

Town and Country Planning Act 1990

GRANTED

Reference	17/01902/OUT
Proposal	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
At	Land On The West Side Of Guntons Road Newborough Peterborough
Applicant	Mr & Mrs B GREGORY
Date valid	27 September 2017

Conditions

Permission is granted subject to the following conditions and reasons:

- C 1 Approval of details of the appearance, landscaping, layout and scale (hereinafter called 'the reserved matters') shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason: To ensure that the development meets the policy standards required by the development plan and any other material considerations including national and local policy guidance.

- C 2 Plans and particulars of the reserved matters referred to in condition 1 above, relating to the appearance, landscaping, layout and scale shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.

Reason: To ensure that the development meets the policy standards required by the development plan and any other material considerations including national and local policy guidance.

- C 3 Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: In accordance with the provisions of Section 92 of the Town and Country Planning Act 1990 (as amended).

- C 4 The development hereby permitted shall be begun either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason: In accordance with the provisions of Section 92 of the Town and Country Planning Act 1990 (as amended).

- C 5 The landscaping scheme to be submitted as a reserved matter shall include the following details:-

- Proposed finished ground and building slab levels
- Planting plans including retained trees, species, numbers, size and density of planting
- Details of any boundary treatment
- the management and maintenance of the amenity area

Reason: In the interests of visual amenity and then enhancement of biodiversity in accordance with policy CS21 of the adopted Core Strategy and policy PP16 of the adopted Planning Policies DPD.

- C 6 No demolition/development shall take place/commence until a programme of archaeological work including a Written Scheme of Investigation has been submitted to, and approved by, the local planning authority in writing. No demolition/development shall take place unless in complete accordance with the approved scheme. The approved scheme shall be implemented in full including any post development requirements e.g. archiving and submission of final reports.

Reason: To secure the obligation on the planning applicant or developer to mitigate the impact of their scheme on the historic environment when preservation in situ is not possible, in accordance with paragraphs 128 and 141 of the National Planning Policy Framework (2012), Policy CS17 of the Peterborough Core Strategy DPD (2011) and Policy PP17 of the Peterborough Planning Policies DPD (2012). This is a pre-commencement condition because archaeological investigations will be required to be carried out before development begins.

- C 7 Prior to the commencement of development, or within other such period as may be agreed in writing with the Local Planning Authority, a scheme for the provision of a fire hydrant should shall be submitted to and approved in writing to the Local Planning Authority. Thereafter, the approved scheme shall be implemented in full before any of the dwellings are occupied.

Reason: In the interests of the health and safety of occupiers of the site and in the vicinity and in accordance with policy PP3 of the Adopted Peterborough Planning Policies DPD and policy CS16 of the Adopted Peterborough Core Strategy DPD.

C 8 No development or other operations shall commence on site in connection with the development hereby approved, (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and or widening, or any operations involving the use of motorised vehicles or construction machinery) until a detailed Arboricultural Method Statement has been submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place except in complete accordance with the approved Method Statement. Such method statement shall include full detail of the following:

- Implementation, supervision and monitoring of the approved Tree Protection Scheme
- Implementation, supervision and monitoring of the approved Treework Specification

Implementation, supervision and monitoring of all approved construction works within any area designated as being fenced off or otherwise protected in the approved Tree Protection Scheme.

Timing and phasing of Arboricultural works in relation to the approved development.

Reason: In order to protect and safeguard the amenities of the area, in accordance with Policy CS16 of the Peterborough Core Strategy DPD (2011) and Policies PP2 and PP14 of the Peterborough Planning Policies DPD (2012).

This is a pre-commencement condition because the approved construction specification must be in place and adequate prior to development commencing to ensure the trees are protected.

C 9 In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) below shall have effect until the expiration of twelve months from the date of the occupation of the building for its permitted use.

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

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

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

Reason: In order to protect and safeguard the amenities of the area, in accordance with Policy CS16 of the Peterborough Core Strategy DPD (2011) and Policies PP2 and PP14 of the Peterborough Planning Policies DPD (2012).

- C10 Prior to commencement of development details of the junction of the proposed access road with Guntons Road as shown on drawing 375/02 Rev B shall be submitted to and approved in writing by the Local Planning Authority. The details shall include measures to provide uncontrolled pedestrian crossing points over Guntons Road i.e. pram crossings.

The approved details shall be implemented prior to the occupation of any part of the development and shall be retained thereafter in perpetuity.

Reason: In the interest of highway safety in accordance with policy PP12 of the adopted Planning Policies DPD (2012). This is a pre-commencement condition as the details will need to be agreed prior to works starting on site.

- C11 The visibility splays at either side of the junction of the site access with the public highway shall be provided in accordance with TMV Architects drawing number 375 02 B prior to the first occupation of the development.

For the avoidance of doubt these splay lines shall measure 2.4 metres along the centre line of the proposed access from its junction with the channel line of the public highway and 43 metres measured along the channel line of the public highway from the centre line of the proposed access road. The visibility splays shall thereafter be retained and kept permanently clear of all obstacles above 600mm in height.

Reason: In the interest of highway safety in accordance with policy PP12 of the adopted Planning Policies DPD (2012).

- C12 The access shall be 5.5m in width for a distance of 10m measured from the highway boundary and for a distance of 4.5m thereafter.

Reason: In the interest of highway safety in accordance with policy PP12 of the adopted Planning Policies DPD (2012).

- C13 Prior to the commencement of the development unless otherwise agreed in writing with the Local Planning Authority, a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. This shall include amongst other matters:

- * a scheme of chassis and wheel cleaning for construction vehicles including contingency measures should these facilities become inoperative and a scheme for the cleaning of affected public highways;

- * a scheme of working hours for construction and other site works;

- * a scheme for construction access from the Parkway system, including measures to ensure that all construction vehicles can enter the site immediately upon arrival, adequate space within the site to enable vehicles to load and unload clear of the public highway and details of any haul routes across the site;

- * a scheme for parking of contractors' vehicles;

- * a scheme for access and deliveries including hours.

The development shall thereafter be carried out in accordance with the approved plan, unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interest of highway safety in accordance with policy PP12 of the adopted Peterborough Planning Policies DPD (2012). This is a pre-commencement condition because the details will need to be agreed prior to works starting.

C14 Prior to the new access being brought into use the existing vehicle access to no. 90 must be closed off in accordance with details to be submitted to and approved in writing by the Local Planning Authority. The vehicle access to no 90. Guntons Road shall be solely from the shared drive.

Reason: In the interest of highway safety in accordance with policy PP12 of the adopted Planning Policies DPD (2012).

C15 The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) undertaken by Geoff Beel Consultancy (dated January 2018) and the following mitigation measures detailed within it:

- * Finished floor levels are set a minimum of 500mm above the existing ground level with flood resilient design incorporated to 300mm above the finished floor level.
- * Safe refuge is to be provided within the proposed loft space.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority

Reason: To reduce the risk of flooding to the proposed development and future occupants and in accordance with policy CS22 of the Adopted Peterborough Core Strategy DPD.

C16 The development shall be implemented in accordance with the following approved plans:

- * Location Plan
- * Proposed Access drg. ref. 375 02 rev B

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

Statement of compliance

The proposal as submitted was not in accordance with local and national planning policy. The local planning authority have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application. Amendments were discussed and agreed with the applicant to bring the proposal into compliance with policy, and the application can therefore be approved in accordance with Paragraphs 186 and 187 of the National Planning Policy Framework (2012).

Authorisation

Authorised by:



Simon Machen
Director of Growth and Regeneration

Date the decision was made: 16 March 2018

Informatives

- 1 It is an offence to take, damage or destroy the nest of any wild bird while it is being built or in use. Trees, scrub and/or structures likely to contain nesting birds between 1st March and 31st August are present on the application site. You should assume that they contain nesting birds between the above dates unless survey has shown it is absolutely certain that nesting birds are not present. Planning consent for a development does not provide a defence against prosecution. The protection of nesting wild birds remains unchanged even when planning permission is granted. For further information on surveys contact Peterborough City Council's Wildlife Officer (wildlife@peterborough.gov.uk)
- 2 The Council's Environmental & Public Protection Service has powers to control noise and disturbance during building works. Normal and reasonable working hours for building sites are considered to be from 8.00 a.m. to 6.00 p.m. Monday to Friday, from 8.00 a.m. to 1.00 p.m. on Saturday and not at all on Sunday. If any activities take place on the site beyond these times, which give rise to noise audible outside the site, the Council is likely to take action requiring these activities to cease. For further information contact the Environmental and Public Protection Services Division on 01733 453571 or email eppsadmin@peterborough.gov.uk.
- 3 The applicant is reminded that under the Wildlife and Countryside Act 1981(Section 1) (as amended) it is an offence to take, damage or destroy the nest of any wild bird while that nest is in use or being built. Trees and scrub are likely to contain nesting birds between 1 March and 31 August. Trees within the application should be assumed to contain nesting birds between the above dates unless a survey has shown it is absolutely certain that nesting birds are not present.
- 4 This development involves the construction of a new or alteration of an existing vehicular crossing within a public highway.
These works MUST be carried out in accordance with details specified by Peterborough City Council.
Prior to commencing any works within the public highway, a Road Opening Permit must be obtained from the Council on payment of the appropriate fee.
Contact is to be made with the from Highway Control Team on 01733 453421 who will supply the relevant application form, provide a preliminary indication of the fee payable and specify the construction details and drawing(s) required.
- 5 The development involves extensive works within the public highway. Such works must be the subject of an agreement under Section 278 of the Highways Act 1980. It is essential that prior to the commencement of the highway works, adequate time is allowed in the development programme for; approval by the council of the designer, main contractor and sub-contractors, technical vetting, safety audits, approval of temporary traffic management, booking of road space for off-site highway and service works and the completion of the legal agreement. Application forms for S278 agreements are available from Highway Control Team on 01733 453421 or the Peterborough City Council website.
- 6 The NLDB's Drain forms the western boundary and there is a byelaw preventing any construction within 9m of this watercourse. An application would be required to relax this byelaw.

A development levy is also payable to the NLDB

- 7 Note pursuant to condition 10: The alterations to the access, provision of short sections of footway with dropped crossings will form part of a S278 Agreement.

General Notes

- 1.1 Planning permission does not constitute approval under the Building Regulations or By-law approval relating to new streets and buildings.
- 1.2 It is an offence under Section 171 of the Highways Act 1980 to temporarily deposit building materials, rubbish or other things on the public highway or make a temporary excavation on it without the written consent of the Highway Authority. The Highway Authority may give its consent subject to such conditions as it thinks fit.
- 1.3 The applicant is reminded that under the Wildlife and Countryside Act 1981(Section 1) (as amended) it is an offence to take, damage or destroy the nest of any wild bird while that nest is in use or being built. Trees and scrub are likely to contain nesting birds between 1 March and 31 August. Trees within the application should be assumed to contain nesting birds between the above dates unless a survey has shown it is absolutely certain that nesting birds are not present.

Appeals to the Secretary of State

- 2.1 The applicant has a right to appeal to the Secretary of State against any conditions of this planning permission, under Section 78 of the Town & Country Planning Act 1990. The appeal must be made on a form which may be obtained from:
- The Planning Inspectorate,
Temple Quay House, 2 The Square, Temple Quay, Bristol. BS1 6PN
Telephone 0303 444 5000 or visit
<https://www.gov.uk/planning-inspectorate>
- 2.2 If an enforcement notice is or has been served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within: **28 days** of the date of service of the enforcement notice, **OR** within **6 months** of the date of this notice, whichever period expires earlier.
- 2.3 The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- 2.4 The Secretary of State need not consider an appeal if it seems to him that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

In practice, the Secretary of State does not refuse to consider appeals solely because the Local Planning Authority based their decision on a direction given by him.

Purchase Notices

If the Local Planning Authority or the Secretary of State grants permission subject to conditions the owner may claim that he/she can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted. In these circumstances the owner may serve a purchase notice on the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

Starting Work too soon

If you start work on this development before complying with conditions that require to be met before work starts, your action has made this planning permission invalid. A fresh planning application will then be required, with the associated cost and delay.

Street Naming and Numbering

If your proposal requires an address, this includes the sub-division of premises which will provide multiple occupancy for both residential and commercial buildings, please note this is not a function covered by your planning application and must be dealt with as a separate matter.

Please contact the Street Naming and Numbering Custodian, Asset Management Team on 01733 453489 for details of the procedure.

Third Party Rights to challenge a planning decision

Currently there are no third party rights of appeal through the planning system against a decision of a Local Planning Authority. Therefore, if you have concerns about a planning application and permission is granted, you cannot appeal that decision.

Any challenge under current legislation would have to be made outside the planning system through a process called Judicial Review.

A 'claim for judicial review' includes a claim to review the lawfulness of a decision, action or failure to act in relation to the exercise of a public function, in this case, a planning decision. The court's permission to proceed is required in a claim for Judicial Review. A claim for Judicial Review is dealt with by the Administrative Court and if leave to judicially review a planning decision is granted, the Judicial Review will be decided by a judge at the High Court.

An application to Judicial Review a decision must be made within 6 weeks of the decision about which you have a grievance being made. For further information on judicial review and the contact details for the Administrative Courts, please go to <http://www.justice.gov.uk/>