

09/01294/FUL: CONSTRUCTION OF 2 X TWO STOREY 4 BED DETACHED DWELLINGS AND 1 X TWO STOREY 3 BED DETACHED DWELLING AT PETERBOROUGH CITY LAWN TENNIS CLUB, PARK CRESCENT, PETERBOROUGH

VALID: 9<sup>TH</sup> NOVEMBER 2009

APPLICANT: PETERBOROUGH CITY LAWN TENNIS CLUB

AGENT: BARKER STOREY MATTHEWS

REFERRED BY: CLLR PEACH

REASON: IMPACT ON CONSERVATION AREA, LOSS OF TENNIS FACILITY AND HERITAGE, LACK OF REPLACEMENT FACILITIES, DESIGN, AMENITY

DEPARTURE: NO

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## 1 SUMMARY/OUTLINE OF THE MAIN ISSUES

The main considerations are:

- Infrastructure/replacement tennis facilities
- Highway safety
- Impact on residential amenity
- Impact on and appearance in Conservation Area

The Head of Planning Services recommends that the application is APPROVED subject to prior completion of a Section 106 obligation relating to provision of community infrastructure in accordance with the Planning Obligation Implementation Scheme (POIS) and replacement tennis facilities.

## 2 PLANNING POLICY

In order to comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 decisions must be taken in accordance with the development plan policies set out below, unless material considerations indicate otherwise.

### Development Plan Policies

**Relevant policies are listed below with the key policies highlighted.**

#### **The Peterborough Local Plan (First Replacement)**

H7 – Within the Urban Area residential development on any unallocated site will be permitted subject to criteria

H15 – Seeks the highest residential density compatible with the character of the area and other considerations

H16 – Seeks to ensure an adequate level of residential amenity

DA1 – Development should be compatible with its surroundings

**DA2 – Development should be in keeping with the area and have no detrimental impact on neighbour amenity.**

DA6 - Infill development should be to an appropriate scale for the site and be in keeping with the character of the area; and have no detrimental impact on neighbouring occupiers

**LT3 – Retention of sports facilities**

**CBE3 – Development should maintain or preserve the character of the Conservation Area**

**IMP1 – Seeks to secure provision of adequate infrastructure where the development gives rise to an increased need.**

## **Material Planning Considerations**

Decisions can be influenced by material planning considerations. Relevant material considerations are set out below, with the key areas highlighted:

### **PPS1 - Delivering Sustainable Development**

**PPS 3 - Housing** gives general advice on dealing with applications for residential development, including:

Para 13 - Design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted.

Para 41 - The national annual target is that at least 60 per cent of new housing should be provided on previously developed land. This includes land and buildings that are vacant or derelict as well as land that is currently in use but which has potential for re-development.

Para 47 - 30 dwellings per hectare (dph) net should be used as a national indicative minimum to guide policy development and decision-making, until local density policies are in place. Where Local Planning Authorities wish to plan for, or agree to, densities below this minimum, this will need to be justified, having regard to paragraph 46.

### **PPG 17 - Planning for open space, sport and recreation**

**Park Conservation Area Appraisal/Management Plan** - Gives general advice on dealing with applications in the area.

**Regional Spatial Strategy** – No specific guidance.

**ODPM Circular 05/2005 “Planning Obligations”**. Amongst other factors, the Secretary of State’s policy requires planning obligations to be sought only where they meet the following tests:

- i) relevant to planning;
- ii) necessary to make the proposed development acceptable in planning terms;
- iii) directly related to the proposed development; (in the Tesco/Witney case the House of Lords held that the planning obligation must at least have minimal connection with the development)
- iv) fairly and reasonably related in scale and kind to the proposed development;
- v) reasonable in all other respects.

In addition Circular 05/2005 states the following principles:

The use of planning obligations must be governed by the fundamental principle that **planning permission may not be bought or sold**. It is therefore not legitimate for unacceptable development to be permitted because of benefits or inducements offered by a developer which are not necessary to make the development acceptable in planning terms.

Similarly, planning obligations should never be used purely as a means of securing for the local community a share in the profits of development.

## **3 DESCRIPTION OF PROPOSAL**

Planning permission is sought for the construction of three detached properties on the site. The two properties proposed at the front of the site would be two storey high 4 bedroom houses, and the property at the rear of the site, a two storey high 3 bedroom coach house.

Two car parking spaces are proposed for each property, all car parking spaces are at the rear of the site behind plots 1 and 2.

## **4 DESCRIPTION OF SITE AND SURROUNDINGS**

The site is the last remnants of a tennis club that has been on site for about 100 years. Part of the site was developed for housing in the 1970’s, leaving a wooden clubhouse and four grass tennis courts which are the subject of this application. The courts are not currently in use.

The site falls within the Park Conservation Area and lies opposite Central Park. The front boundaries of this and many nearby sites are marked by distinctive diaper work fences and hedging. The adjoining houses are modern (having been built around 1970), although the overall character of the area reflects its history as an Arcadian Victorian/Edwardian residential area.

## **5 PLANNING HISTORY**

Application Number	Description	Date	Decision
06/00625/FUL	Erection of 12 apartments in three blocks	25.07.2006	Withdrawn
06/01243/FUL	Erection of 10 apartments in three blocks	10.05.2007	Refused and dismissed on appeal.
08/00438/FUL	Erection of 10 apartments in three blocks	25.11.2008	Refused and dismissed on appeal.

## **6 CONSULTATIONS/REPRESENTATIONS**

### **INTERNAL**

**Environmental Health** – No objection.

**Housing Enforcement Officer** – No objection but highlights requirements of the Housing Act 2004.

**Head of Transport and Engineering** – No objections subject to the imposition of conditions and informatives.

**Conservation Officer** – The concerns over adverse impact on the conservation area and design have previously been dismissed by the Planning Inspector. It is not considered that the proposed development would harm the character and appearance of the conservation area. Variations in the architectural detailing on the elevations facing the Crescent and landscaping issues would enhance the impact of the development.

### **EXTERNAL**

**Anglian Water** – No objection

**Police Architectural Liaison Officer** – No comments received

**Environment Agency** – No comments received

**Sport England** – In this instance Sport England are a non-statutory consultee. They support the principle of replacement facilities to compensate for the loss of the existing facilities, and are agreeable that two hard surfaced floodlit courts would be an adequate replacement for the four grass courts to be lost. Their only concern is without knowledge of where the replacement facilities would be, they are unable to judge the accessibility requirement of their policy and PPG17, to ensure the new facility is at least as accessible to current and potential new users. They recommend the S106 agree the location of the replacement facilities and that these replacement facilities be provided prior to work commencing on the Park Crescent site. They conclude that they would be unable to support the proposal, without prior agreement of location, management, cost of replacement facilities details, and the replacement facilities being provided prior to commencement of development on the existing site.

**Peterborough Civic Society** – Support this application. They consider it to be a sensitive, well detailed scheme entirely appropriate for this part of the Park Conservation Area.

**English Heritage** – No comments received

## **NEIGHBOURS**

Letters of objection have been received from 44 local residents raising the following issues:

- Incompatible with Park Conservation Area Appraisal
- Not in keeping with the character of surrounding development
- Overdevelopment
- Unacceptable visual impact
- Poor design
- Unacceptable size, scale, siting and height
- Loss of privacy/overlooking
- Overshadow/loss of light
- Materials
- Noise
- Similar footprint to previously refused flats
- Impact on local community
- Loss of property value
- Too close to site boundaries and neighbouring sites
- The Tennis Club is one of the oldest in England and this historic facility should not be lost
- Inadequate replacement tennis facilities
- Contrary to planning policies
- Planning history, previously refused applications
- Loss of green space
- Loss of open aspect
- Affect on trees
- Affect on wildlife
- Extra traffic
- Parking problems
- Lack of garages
- Inadequate garden provision
- Creation of front accesses will destroy the existing front hedge boundary treatment
- Pollution
- Gated developments are socially divisive
- Lack of renewable energy generation on site
- Design is not energy efficient
- Rear building line should be respected
- Bins on site frontage not acceptable
- Too much hard surfacing proposed on site

### **Broadway Residents Association**

Were disappointed that they were not formally notified, and raised concerns about the agent's assumptions that the application has all been agreed before the submission of the application. As the Council may gain financially from the development it is important that it is rigorously assessed. They do not consider that the application meets the requirements of PPG17 or the concerns of the Inspector in the last planning appeal decision. The application for Conservation Area consent for the demolition of the clubhouse on site should have been submitted at the same as this application. All previous application have been refused and dismissed on appeal, therefore this application should be determined by the Planning Committee.

## **COUNCILLORS**

Cllr Peach – The proposal fails to identify alternative facilities to satisfy the S106 requirement. The scheme does not meet the requirements of the Park Conservation Area Appraisal report and management plan. The scheme results in the loss of amenity value, loss of recreational and sporting facility, and loss of heritage for the community and city. There are aesthetic, design and social objections to the scheme. The development does not follow the front and rear building lines of surrounding development and the refuse facilities would be positioned too close to the road.

## **7 REASONING**

### **a) Introduction**

There have been two previous applications on this site for ten apartments contained within three blocks that were both refused by Members and dismissed on appeal.

The last appeal was dismissed primarily on the grounds that the applicants had not entered into a S106 obligation to provide replacement tennis facilities in accordance with best practice. Whilst this application is now for three dwellings, it is similar to the previous submissions in terms of the siting of three buildings on the site, their design, appearance and footprint, which were deemed to be acceptable by the Inspector, and as such the Inspector's decision must be a material consideration in reaching your decision.

### **b) Provision of replacement tennis facilities.**

#### Summary

In the context of this application, national and local policy is such that the loss of the grass courts has to be offset by the provision of replacement or improve tennis facilities elsewhere. To this end the applicant is proposing to:

- I. Deposit a sum of approximately £100,000 (index linked) on the sale of the land with the City Council and either
- II. The Club draws on the money to build two all weather floodlit tennis courts at Bretton Gate (or an alternative site to be approved by the Council) within one year of the sale of the land or (in the event that this does not happen)
- III. The Council draws on the money to providing new and or improved existing tennis facilities.

Adopted Local Plan Policy LT3 indicates that this is an acceptable approach, provided the replacement facilities are as accessible and equivalent. Although this may result in a reduction in the amount of open space in the ward, this must be balanced against the benefits to the City as a whole of the proposed replacement facilities.

#### Detail

The applicants are proposing to construct two floodlit all weather courts elsewhere in the City, on a site to be identified. Since the courts at Park Crescent have become unplayable the club have continued to play at Bretton and Itter Park. It is the clubs first preference that the relocated facilities for the club would be provided at the Peterborough Town site at Bretton Gate. However as the funding of the re-placement tennis facilities is directly dependent on the grant of planning permission and sale of this site, contracts with the landowners of the site cannot be secured at this stage. Planning permission for these replacement facilities would be required to be sought, and it is Officers view that the principle of these facilities at this site would be acceptable.

Although the number of existing courts will be halved, their proposed all weather surfacing and lighting would allow play on many more occasions than the current grass pitches and therefore this is considered to be equivalent provision. It will result in the loss of grass courts, which is regrettable, but that must be balanced against the additional availability of the new courts, which will be more useful and arguably of higher quality than the existing courts. Accessibility is impossible to evaluate as the exact site has not

yet been identified, however the preferred site of the tennis club is considered to be acceptable in terms of accessibility. Members should be mindful that whilst there are few sites as central as the current premises, there are other sites within the City that are accessible to large portions of the population on foot and by bus, and the membership of the existing club is city wide, and is not just a local facility. The loss of these tennis facilities from the Park Ward would not result in any deficiency in tennis facilities in the Ward, as tennis facilities are available in Central Park.

In the event that the new courts are not provided by the applicant the Council will draw on the £100,000 that is to be deposited with the Council by the Tennis Club to provide new or improved tennis facilities in the city.

The existing tennis courts available within the city have been assessed, in terms of those with and without floodlighting, and those which are owned or run by Peterborough City Council (PCC), with the others in private or school ownership (see Appendix 1). After assessing all options, should the Council be in the position where it receives the S106 monies, due to the Lawn Tennis Club being unable to provide the replacement facilities, the most likely sites for this money to be spent due to their acceptability and deliverability would be Bushfield Sports centre or Werrington Sports centre. Both these sites are existing facilities within the control of the Council, they both have unlit facilities which could become lit to increase their usage, and they are both located within District centres of the city, therefore highly accessible by means of transport other than the private car. It is therefore considered should the Lawn Tennis Club be unable to provide replacement tennis facilities that the Council would be able to use the financial contribution to upgrade exiting tennis facilities within the city to provide suitable replacement tennis facilities for the facilities that would be lost.

In conclusion, officers consider that these provisions comply with policy LT3 and will ensure equivalent replacement facilities.

These requirements accord with both national and local policy and in your officer's opinion complies with the 5 tests and the principles set out in ODPM Circular 05/2005 (see Section 2 above) and the Tesco/Witney case in which the House of Lords held that the planning obligation must at least have a minimal connection with the development.

#### c) **Highway safety**

There are no highway safety issues or parking problems associated with this proposed development. The Local Highway Authority is satisfied subject to the imposition of conditions and informatives that this development will not result in any highway safety concerns.

#### d) **Character of the area/design**

In the previous appeals the Inspector commented 'many of the buildings on Park Crescent were built in the latter half of the 20<sup>th</sup> century. There is, therefore, considerable variety in the age and form of buildings in Park Crescent and an assessment of the character and appearance of the Conservation Area cannot ignore those built after the Edwardian period'. It is most noticeable that the dwellings adjacent to this site were built in the 1960's and 70's and are at variance with the character described in the Conservation Area appraisal and the character identified as important to the area; but due to the passage of time and growth of planting have integrated themselves into the area. The proposed buildings however are proportioned and detailed to respect the character of the late Edwardian/ Victorian period that typifies the area and should quickly achieve the same status.

It is not considered that the positioning of three dwellings on this site would be overdevelopment or would harmfully impact on the surrounding character of the Conservation Area. The proposed garden provision for each property is in excessive of the Council's minimum guidelines and whilst not as generous as surrounding plots could not be considered unacceptable in planning terms.

It is considered therefore that the three proposed dwellings on the site would not be harmfully out of keeping with the surrounding area or Conservation Area and would be in accordance with Policy CBE3 and the Conservation Area Appraisal.

#### e) **Impact on residential amenity**

The buildings have been arranged to avoid any material overlooking or noise for nearby residents. The levels of amenity enjoyed will change; however, all window to window overlooking distances exceed the recommended 20 metres. The adjoining properties in Park Crescent will experience some noise and activity adjacent to their gardens, but this is no more than would be normal in any residential street, whilst other properties will experience noise and activity closer to the less sensitive areas of existing gardens.

Similarly, there may be times when adjoining gardens will be shaded for periods during the day, but in no case will this amount to a material loss of amenity.

Overall, the impact on the amenity of neighbouring properties is considered to be negligible.

#### f) **POIS contribution**

This has been calculated to be £24,000 (plus monitoring fee) in accordance with the adopted Planning Obligation Implementation Scheme.

### **8 CONCLUSIONS**

The proposed buildings have been assessed by an Inspector to be appropriate in terms of scale, design, use and siting. Since that assessment there have been no material changes which would indicate that they have become unacceptable. The applicants have agreed to a Section 106 obligation that meets all the burdens imposed by the development and additionally provides replacement tennis facilities.

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

The development is an unallocated site in a residential area which is appropriate for residential development, the density and design is appropriate and therefore it complies with policies H7, H15, DA1 and DA6 of the Peterborough Local Plan (2005).

The proposal would maintain or preserve the character of the Conservation Area and therefore it complies with policy CBE3 of the Peterborough Local Plan (2005).

The level of overlooking and privacy is acceptable and therefore it complies with policy DA2 of the Peterborough Local Plan (2005).

Adequate infrastructure would be provided including replacement tennis facilities and therefore it complies with policies IMP1 and LT3 of the Peterborough Local Plan (2005).

### **9 RECOMMENDATION**

Subject to the prior satisfactory completion of an obligation under the provisions of Section 106 of the Town and Country Planning Act 1990 for a financial contribution to meet the community infrastructure and replacement tennis needs of the area, the Head of Planning Services be authorised to grant planning permission subject to the following conditions:

**C1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**

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

**C2 No development shall take place until samples of the materials to be used in the construction of the external surfaces of the dwellings; hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.**

Reason: For the Local Authority to ensure a satisfactory external appearance, in accordance with Policy DA2 of the Peterborough Local Plan (First Replacement).

- C3 Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 (or any statutory instrument revoking and re enacting that Order), no windows shall be inserted into the first floor north and south elevations of plots 1, 2, and the Coach House; other than those on the approved plan no. AK003, AK017, and AK013.**

Reason: In order to protect and safeguard the visual amenity of the area and to prevent overlooking, in accordance with Policy DA2 of the Peterborough Local Plan (First Replacement).

- C4 Details of all boundary walls and fences shall be submitted to and approved in writing by the Local Planning Authority. These shall be erected prior to the first occupation of the development, and thereafter such fencing/walls shall be maintained.**

Reason: In order to protect and safeguard the amenities of the adjoining occupiers, in accordance with Policy DA2 of the Peterborough Local Plan (First Replacement).

- C5 Temporary facilities shall be provided clear of the public highway for the parking, turning, loading and unloading of all vehicles visiting the site during the period of construction. These facilities shall be in accordance with details which have been approved in writing by the Local Planning Authority.**

Reason: In the interests of Highway safety, in accordance with Policy T1 of the Peterborough Local Plan (First Replacement).

- C6 The existing access to Park Crescent shall be permanently closed to vehicular traffic before the new access is brought into use. Details of the means of closure shall be submitted to and approved in writing by the Local Planning Authority before development is commenced.**

Reason: In the interests of Highway safety, in accordance with Policy T1 of the Peterborough Local Plan (First Replacement).

- C7 If gates are to be provided to the vehicular access they should be set back at least 6m from the edge of the carriageway and be electronically operated.**

Reason: In the interests of Highway safety, in accordance with Policy T1 of the Peterborough Local Plan (First Replacement).

- C8 Development shall not commence before fully operational vehicle-cleaning equipment has been installed of a specification and in a position to be approved in writing by the Local Planning Authority. All vehicles leaving the site shall pass through the cleaning equipment before entering the public highway. In the event of the approved vehicle-cleaning equipment being inoperative, development operations reliant upon compliance with this condition shall be suspended unless and until an alternative equally effective method of cleaning vehicles has been approved by the Local Planning Authority and is operational on site.**

Reason: To prevent mud and debris being brought onto the public highway, in the interests of highway safety, in accordance with Policies T1 of the Peterborough Local Plan (First Replacement).

- C9 Notwithstanding the details shown on the submitted plans, no development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include means of enclosure, hard surfacing materials; minor artefacts and structures; proposed and existing functional services above and**



**below ground (e.g. drainage power, communications cables, pipelines, etc., indicating lines, manholes, supports, etc.).**

Reason: In order to improve the visual amenity of the areas, in accordance with Policies DA1, DA2, LNE9 and LNE10 of the Peterborough Local Plan (First Replacement).

- C10 All hedges and hedgerows on and immediately adjoining the site shall be protected from damage for the duration of works on the site. This shall be in accordance with BS5837:1991. Any parts of the hedges or hedgerows removed without the Local Planning Authority's consent or which die or become, in the opinion of the Local Planning Authority, seriously diseased or otherwise damaged within five years following contractual practical completion of the approved development shall be replaced as soon as is reasonably practicable and, in any case, by no later than the end of the first available planting season, with plants of such size and species and in such positions as may be agreed with the Authority.**

Reason: In order to protect the amenity of the area, in accordance with Policy LNE12 and LNE10 of the Peterborough Local Plan (First Replacement).

- C11 Before the new access is brought into use, visibility splays shall be provided on both sides of the access and shall be maintained thereafter free from any obstruction over a height of 600mm within an area of 2m x 2m measured from and along respectively the back of the footway.**

Reason: In the interests of Highway safety, in accordance with Policies T1 and T8 of the Peterborough Local Plan (First Replacement).

- C12 The gradient of the access shall not exceed 1 in 10 for a distance of 5m from the edge of the existing carriageway.**

Reason: In the interests of Highway safety, in accordance with Policies T1 and T8 of the Peterborough Local Plan (First Replacement).

- C13 The access road/driveway shall be of a minimum width of 5m for a distance of 10m from the edge of the existing carriageway, and a minimum of 4.5m width thereafter.**

Reason: In the interests of Highway safety, in accordance with Policies T1 and T8 of the Peterborough Local Plan (First Replacement).

If the S106 has not been completed within 3 months of the date of this resolution without good cause, the Head of Planning Services be authorised to refuse planning permission for the reason stated below:-

- R1 A request has been made by the Local Planning Authority to secure community infrastructure and replacement tennis facilities however, no S106 Obligations have been completed and the proposal is therefore considered to be contrary to policy IMP1 of the Peterborough Local Plan (First Replacement).**

Copy to Councillors Kreling, Lowndes, and Peach

Appendix 1

<b>With Floodlights</b>	<b>Without floodlights</b>
Esporta (6 courts) Thorpe	PCC - Bushfield Sports Centre (Orton) 7 courts -
Orton Longueville (4 courts) Orton	PCC - Werrington Sports Centre (Werrington) 5 courts
Peterborough Town Sports Club (Bretton) 3 courts	PCC - Itter Park (4 courts) – Paston
Kings School – (9 courts) – City Centre	PCC - Central (4 hard and 6 grass) city centre
	Longthorpe (2 hard courts) Longthorpe/Netherton
	Bretton – (4 hard courts) (Pboro Lions)
	Jack Hunt School (6 courts) - Netherton
	Thomas Deacon Academy (4 courts) City centre
	Peterborough High (3 courts) city centre/thorpe
	Castor / Ailsworth– 2 grass and 1 hard court - Castor
	Arthur Mellows Village College – (8 courts) - Glinton