

11/00225/FUL: CONSTRUCTION OF 2 X 4 BEDROOM AND 1 X 3 BEDROOM DETACHED PRESTIGE DWELLINGS AT PETERBOROUGH CITY LAWN TENNIS CLUB, PARK CRESCENT, PETERBOROUGH

VALID: 25th FEBRUARY 2011

APPLICANT: PETERBOROUGH CITY LAWN TENNIS CLUB

AGENT: BARKER STOREY MATTHEWS

REFERRED BY: HEAD OF PLANNING SERVICES

REASON: PREVIOUS COMMITTEE INVOLVEMENT

DEPARTURE: NO

CASE OFFICER: AMANDA MCSHERRY

TELEPHONE: 01733 454416

E-MAIL: amanda.mcsherry@peterborough.gov.uk

1 SUMMARY/OUTLINE OF THE MAIN ISSUES

The main considerations are:

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

The Head of Planning, Transport and Engineering 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).

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.

Peterborough Core Strategy Development Plan Document

Policy CS16 Urban design and the public realm

Policy CS17 The Historic Environment

Policy CS14 Transport

Policy CS13 Developer contributions to infrastructure provision

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

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

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

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.

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. Two properties would be positioned at the front of the site these would be two storey high 4 bedroom houses, and the property positioned at the rear of the site, would be a two storey high 3 bedroom coach house.

Two car parking spaces are proposed for each property, all car parking spaces are positioned at the rear of the site behind plots 1 and 2. One central combined vehicle and pedestrian access is proposed to serve the three properties from Park Crescent.

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, and have not been in use for a number of years. The site is currently laid grass, with the wooden clubhouse still in position, and is screened from Park Crescent by an approximately 2m high hedge and 1m high diaper work wooden fence.

The site falls within the Park Conservation Area and lies opposite Central Park. 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. The character of the surrounding area is generally one of large residential properties set within large plots, screened from the road with mature trees and hedges.

5 PLANNING HISTORY

Application Number	Description	Date	Decision
09/01294/FUL	Construction of 2 x two storey 4 bed detached dwellings and 1 x two storey 3 bed detached dwelling	14.06.2010	Refused
08/00438/FUL	Erection of 10 apartments in three blocks	25.11.2008	Refused and dismissed on appeal.
06/01243/FUL	Erection of 10 apartments in three blocks	10.05.2007	Refused and dismissed on appeal.
06/00625/FUL	Erection of 12 apartments in three blocks	25.07.2006	Withdrawn

6 CONSULTATIONS/REPRESENTATIONS

INTERNAL

Local Highway Authority - No objections subject to conditions and informatives.

Archaeology – No objections. The proposed development is unlikely to affect significant archaeological remains.

Conservation Officer – No objections.

Pollution Control – No observations.

Landscape Officer – Objects on the grounds of the absence of a tree survey to determine the implications of the development on the boundary trees.

EXTERNAL

Police Architectural Liaison Officer – No objections.

Sport England – We have maintained a position that we could only support the re-development of the Park Crescent site if a suitable replacement facility can be provided within a reasonable catchment area for existing users. We are supportive of the principle of two artificial floodlit and covered courts being adequate replacement for four grass courts, and are supportive of the planning application 11/00230/FUL. The key issue for Sport England remains how the provision of the replacement courts are secured via a s106 agreement. The wording of this agreement needs to ensure the Park Crescent site could not be developed without replacement facilities coming forward.

NEIGHBOURS

19 Letters of objection have been received from 14 local households raising the following issues:

- Loss of green space
- Overdevelopment
- Incompatible with Park Conservation Area Appraisal
- Unacceptable size, scale, siting and height
- Extra traffic
- Parking problems
- Unacceptable visual impact
- Not in keeping with the character of surrounding development
- Impact on local community
- Too close to site boundaries and neighbouring sites
- Overbearing impact

- Inadequate replacement tennis facilities, and they are not in the central area
- The fallback replacement tennis facilities shows the lack of commitment to providing the replacement tennis facilities
- The replacement tennis facilities, are unacceptable as they are leasehold with 58.5 years unexpired, whereas the current site is freehold.
- The replacement tennis facilities are also 2.2m from current site. Since the club has moved from its Park Crescent location, it has lost its 35 junior members.
- Loss of community facility for this part of the city
- The previous tennis facility was on site for over 100 years
- The replacement tennis facilities would be on a site that is not as attractive as the current site
- The deal for the replacement tennis facilities has not been finalised, therefore if planning permission were granted before this the Council may be left with the financial fallback contribution and burden of providing the replacement tennis facilities
- Loss of a city tennis club, if these two tennis clubs amalgamate
- Contrary to planning policies
- Planning history, previously refused applications
- Club/site is being lost so Club Members can make a profit on sale of site
- Poor design
- The houses will not sell, and will remain empty or rented
- Loss of open aspect
- Loss of views
- The rear, 3rd property is uncharacteristic of area
- Site should only accommodate 1 or 2 properties
- Loss of privacy/overlooking
- Overshadow/loss of light
- Loss of property value
- Noise
- Pollution, car fumes
- Affect on wildlife
- Affect on trees
- Precedence, for backland development
- Creation of front accesses will destroy the existing front hedge boundary treatment
- Similar footprint to previously refused flats
- Inadequate garden provision
- Lack of garages
- Site should be developed with two properties on the frontage only, deleting the rear property.
- Concerned a developer may submit a future application for flats
- The tennis club have not approached past members for their views
- The tennis club have not looked at providing alternative tennis facilities on the existing site
- The sale of the land will generate more money than the cost of replacement facilities, where will this additional money go
- Too much hard surfacing proposed on site
- The loss of the pavilion building is contrary to the Conservation objectives of the area

Broadway Residents Association

- Overdevelopment of the site, 3 properties are too many
- Oversized properties, no garages, inadequate curtilage and garden space
- Properties excessive in size and footprint for the site
- Loss of privacy/overlooking for neighbours
- Not in keeping with the character of surrounding development
- Access road insufficient for 3 properties
- Adverse impact on Conservation area
- Backland development inappropriate

- Creation of front access will destroy the existing front hedge and wicket fence boundary treatment which is a key characteristic of the Conservation Area. Visibility splays required for the access will further remove the established boundary.
- No application has been made for demolition of the pavilion building on site
- Unreasonable to proceed without a tree survey
- Planning history, previously refused applications
- Contrary to local and national planning policy
- Inadequate replacement tennis facilities which are not equivalent to those being lost, contrary to PPG17
- The S106 should be available to ensure transparency and enforceability
- Huge local concern about loss of local tennis club facilities
- The fallback replacement tennis facilities provides too much uncertainty about whether replacement facilities could be provided and whether they meet policy requirements
- Members of the Residents Association wish to restore tennis playing on this site

COUNCILLORS

No comments received

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 of these appeals 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.

There has also been a previous application for three houses on the site similar to this proposal, which was refused by Members on the grounds that there was still insufficient assurity that the alternative provision of tennis facilities could actually be provided in suitably timely way to a standard that adequately reflects the quality and location of the resource that is proposed to be lost to development. The appeal for this refused application was withdrawn.

The three houses proposed under this application follow the siting, scale and design of the houses and apartments previously proposed on this site. This application has been amended during the course of its consideration, to delete the two separate pedestrian accesses that would puncture the front boundary treatment and propose only one central shared pedestrian and vehicle access in the front boundary.

b) Infrastructure/replacement tennis facilities

To try and address the previous Committee and Inspector's reason for refusal, the concurrent planning application for two covered floodlit tennis courts planning reference 11/00230/FUL has been submitted for consideration. The applicant for that application is the Peterborough Town Sports Club in association with the Peterborough City Lawn Tennis Club.

Since the courts at Park Crescent became unplayable the club have continued to play at Bretton and Itter Park. It has always been the clubs first preference that the relocated facilities for the club would be provided at the Peterborough Town site at Bretton Gate. The funding of these replacement 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.

The replacement tennis facilities proposed provide two tennis courts contained under a removable transparent polythene dome, that does not require any lights inside for daytime play. External outdoor floodlighting is proposed and that will penetrate the membrane and provide sufficient light for night play in the dome. The floodlighting columns would be approximately 10m high with the lights positioned by downward deflection through the dome onto the playing surface to reduce light pollution. The dome can be kept on site permanently, or can be erected and deflated seasonally as

required. The hours of opening proposed is 8am to 10pm Monday to Sunday, including bank/public holidays.

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. 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.

The Lawn Tennis Association and Sport England consider the two proposed floodlit and covered tennis courts to be comparable facilities with the four grass tennis courts to be lost on this site, due to the increased hours of play the addition of flood lighting and covered facilities would provide.

The Bretton Gate site 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.

It is therefore considered that the proposed replacement tennis facilities would adequately mitigate for the lost of tennis facilities on this site in accordance with the requirements of Local Plan Policy LT3 and National Planning policy guidance PPG17, thereby overcoming the Committee and Inspector's previous reasons for refusal.

c) Impact on residential amenity

The Inspectors in their consideration for apartments on the site concluded 'that the proposal would not have an adverse impact on the living conditions of neighbouring and prospective residents and that it complies with Policy DA2'.

The three dwellings now under consideration have the same siting, footprint and design as the previous three apartment blocks subject to the appeals.

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. The proposal is therefore considered to be in accordance with Policy CS16 of the Core Strategy, which supersedes Policy DA2 of the Local Plan.

d) Impact on and appearance in Conservation Area

The Inspector in his appeal decision in 2007 on planning application 06/01243/FUL gave little weight to the recommendations in The Park Area Conservation Area appraisal, technical report and report and management plan as the documents were in draft. However in reaching his decision he then went on to assess what impact the proposed development would have on the Conservation Area in accordance with development plan policy CBE3 of the Peterborough Local Plan, and concluded that the proposal would preserve the character and appearance of the Park Conservation.

The subsequent Inspector in her appeal decision in 2009, acknowledged that the previous Inspector concluded that the proposal would preserve the character and appearance of the Park Conservation Area and would comply with the provisions of the Peterborough Local Plan 2005 in that respect. She acknowledged that since this decision the Park Area Conservation Area Appraisal report and management plan has been adopted, but noted that the Council had not indicated that this should change this conclusion.

Many of the buildings on Park Crescent were built in the latter half of the 20th century. It is most noticeable that the dwellings adjacent to the application site were built in the 1960's and 1970's are at variance with the Character described in the Conservation Area appraisal and the character identified as important to the area. 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'.

The proposed buildings however are proportioned and detailed to respect the character of the late Edwardian/ Victorian period that typifies the area. This is in accordance with the Park Conservation Area appraisal, which requires new development to respect the scale, massing and materials of the traditional buildings within the conservation area and vicinity, rather than the more modern additions.

The front building lines of the two dwellings have been positioned on site to reflect a similar position to the adjacent dwellings. This allows the 'green' front garden areas to be a dominant feature of plots in keeping with the streetscene character, and in accordance with the Conservation Area appraisal.

It is not considered that the positioning of three dwellings on this site would be overdevelopment of the site or that they would harmfully impact on the surrounding character of the Conservation Area. The proposed garden provision 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 CS17 (which supersedes Policy CBE3 of the Local Plan) and the Conservation Area Appraisal.

This conclusion accords with the previous Inspector who stated 'In a road with such variety, I do not consider that the proposed buildings would look out of place, and concluded that the proposal would preserve the character and appearance of the Park Conservation Area and that it complies with Policy CBE3.'

Trees

In the Inspector's appeal decision in May 2007, of planning reference 06/01243/FUL, he identified that there were important boundary trees surrounding the site and in neighbouring gardens. The Landscape Officers comments at that time commented that the proposals would be unlikely to harm these features. In order to be sure of this the Landscape Officer recommended that further information be submitted regarding the position of the trees and their crown spread. A further plan was submitted which showed the existing trees around the site and the Landscape Officer did not change his view that the proposals were unlikely to harm the trees around the boundaries of the site. The positions of the dwellings on site have not changed from this appeal decision therefore whilst the Landscape Officer has requested the submission of the standard tree information to detail the impact on the surrounding trees, it is not considered to be reasonable to insist this is provided in this instance in view of this planning history of the site where the Landscape Officer and Inspector have both previously concluded that the proposed development would not harm the trees around the boundaries of the site, in accordance with Policy LNE9 of the Local Plan.

e) S106

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

This 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.

It is therefore considered that the proposal would accord with Policy CS13 of the Peterborough Core Strategy 2011.

f) Miscellaneous

Highways

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. The two car parking spaces per property proposed, is in accordance with Peterborough City Council's maximum car parking standards in is Local Plan.

Property Values, the properties will not sell, profit for Club Members – All of these issues are not material planning considerations and are therefore not issue that can be taken into consideration in the determining of this planning application.

8 CONCLUSIONS

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, and DA6 of the Peterborough Local Plan First Replacement 2005, and Policy CS16 of the Core Strategy.

The proposal would maintain or preserve the character of the Conservation Area and therefore it complies with Policy CS17 of the Core Strategy, and the Park Conservation Area Appraisal/Management Plan.

The level of overlooking and privacy is acceptable and therefore it complies with Policy CS16 of the Core Strategy.

Adequate infrastructure would be provided including replacement tennis facilities and therefore it complies with Policy CS13 of the Core Strategy and Policy LT3 of the Peterborough Local Plan (First Replacement) 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 needs of the area generated by the development and to secure replacement tennis facilities, the Head of Planning, Transport and Engineering 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 commence until such time as the construction of the tennis courts approved under 11/00230/FUL has commenced and no dwelling shall be

occupied until such time as the said courts are completed in accordance with the associated planning permission and operational.

Reason: To ensure that the alternative tennis court provision is provided in accordance with Policy LT3 of the Adopted Peterborough Local Plan (First Replacement).

- C3 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 CS16 of the Peterborough Core Strategy DPD (2011).

- C4 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 CS16 of the Peterborough Core Strategy DPD (2011).

- C5 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 CS16 of the Peterborough Core Strategy DPD (2011).

- C6 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 CS14 of the Peterborough Core Strategy DPD (2011).

- C7 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 CS14 of the Peterborough Core Strategy DPD (2011).

- C8 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 CS14 of the Peterborough Core Strategy DPD (2011).

- C9 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 Policy CS14 of the Peterborough Core Strategy DPD (2011).

- C10 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 CS16 of the Peterborough Core Strategy DPD (2011) and LNE9 and LNE10 of the Peterborough Local Plan (First Replacement).

- C11 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).

- C12 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 Policy CS14 of the Peterborough Core Strategy DPD (2011) and Policy T8 of the Peterborough Local Plan (First Replacement).

- C13 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 Policy CS14 of the Peterborough Core Strategy DPD (2011) and Policy T8 of the Peterborough Local Plan (First Replacement).

- C14 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 Policy CS14 of the Peterborough Core Strategy DPD (2011).

Copy to Councillors Kreling, Peach and Shearman