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**MAIN CASE**

**Reference No:** 15/00950/FUL

**Proposal:** Proposed single storey dwelling, Parking, Access and associated site works.

**Site Address:** Land To Side Of 37 Trinity Close Fordham Cambridgeshire CB7 5PB

**Applicant:** Mr P Rampley

**Case Officer:** Julie Barrow Planning Officer

**Parish:** Fordham

**Ward:** Fordham Villages  
**Ward Councillor/s:** Councillor Joshua Schumann  
 Councillor Julia Huffer

**Date Received:** 11 August 2015      **Expiry Date:** 11 November 2015  
**[Q101]**

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1.0 **RECOMMENDATION**

1.1 Members are requested to REFUSE the application for the following reasons:

1. The proposed development by virtue of the location of the driveway and turning area will have a detrimental impact upon the residential amenity of the host dwelling (37 Trinity Close) and the adjacent property (38 Trinity Close), due to motor vehicular movements. The proposed development does not comply with policy ENV2 of the East Cambridgeshire Local Plan Adopted April 2015.
2. The proposed dwelling would be significantly overlooked by two storey properties located to the west of the site. The future occupiers of the dwelling would, therefore, have a poor level of outdoor private amenity space. The proposed development does not comply with policy ENV2 of the East Cambridgeshire Local Plan Adopted April 2015.
3. Trinity Close is defined by dwellings fronting the road and this proposal seeks to build in depth. It is considered that the proposed dwelling would be out of keeping with the local context of the streetscene and would appear cramped, for this reason it does not comply with policy ENV2 of the East Cambridgeshire Local Plan Adopted April 2015.

## 2.0 SUMMARY OF APPLICATION

- 2.1 The application seeks consent for the construction of a single storey dwelling together with parking area, access and associated site works. The proposed dwelling will have a length of 13.6 metres and a maximum depth of 11 metres. The dwelling will have a ridge height of 4.6 metres and an eaves height of 2.3 metres. Access will be via shared driveway serving Nos. 37 and 38 Trinity Close. An existing garage on the edge of the site will be demolished to facilitate the development.
- 2.2 The full planning application, plans and documents submitted by the Applicant can be viewed online via East Cambridgeshire District Council's Public Access online service, via the following link <http://pa.eastcamb.gov.uk/online-applications/>. **Alternatively a paper copy is available to view at the East Cambridgeshire District Council offices, in the application file.**
- 2.3 The application has been called to Planning Committee by Cllr Joshua Schumann.

## 3.0 PLANNING HISTORY

### 3.1

84/00394/FUL	Extensions	Approved	07.06.1984
79/00729/FUL	Extension to form a porch	Approved	11.10.1979
87/00851/FUL	Extension and erection of garage	Approved	18.09.1987
87/00936/FUL	Change of use of land from open space to residential	Approved	18.09.1987
90/00667/OUT	Erection of a detached dwelling	Refused	11.09.1990
91/00099/OUT	Erection of a single storey dwelling	Refused	05.06.1991
04/00634/OUT	Outline application for erection of a single storey dwelling, garage, access arrangements and associated site works	Withdrawn	30.07.2004
04/01184/OUT	Erection of a single storey dwelling, garage, access and associated site works.	Refused	22.12.2004

#### 4.0 THE SITE AND ITS ENVIRONMENT

4.1 The site is located within the established development framework of Fordham and comprises the side garden to No. 37 and the existing access to the property. It is mainly laid to law with 1.8 metre fencing to all boundaries with neighbouring properties. There are a number of trees and shrubs within the site. A footpath runs alongside the western boundary of the site, leading to an area of open space beyond the site. The site itself was originally designated as amenity/open space land and was given change of use to residential garden in 1987, and is overlooked by two storey properties to the rear of the site.

#### 5.0 RESPONSES FROM CONSULTEES

5.1 The full responses are available on the Council's web site.

**Fordham Parish Council** – No concerns so long as any conditions attached to the sale of the land are adhered to.

**Ward Councillor, Cllr J Schumann** – Requests that the application is called-in. A very similar application has been considered before by the committee and the decision should sit with the committee once again. The number of interests/comments from both the Parish Council and members of the Fordham Village have been noted and as a result this application has generated enough public interest to warrant a public hearing.

**Local Highway Authority** – No significant adverse effect upon the public highway should result from this proposal. There is sufficient space for up to three residential properties to use the existing access and alternative/additional parking for No. 37 could be created at the frontage of the house if required. The turning and parking area for the new dwelling is adequate and will allow the new residents of the proposed dwelling to exit the drive and access the public highway in a forward gear.

No objections in principle to this application, subject to a condition relating to the provision of a construction traffic management plan.

**Cambridgeshire Archaeology** – Records indicate that the site lies in an area of high archaeological potential. There are no objections to development in this location but consider the site should be subject to a programme of archaeological investigation, secured by condition.

**Environmental Health, Scientific Officer** – As this application is for a sensitive end use (residential) it is recommended that contaminated land conditions are attached to any grant of permission.

**Environmental Health, Technical Officer** – No issues to raise.

**Arboricultural Officer** – No objections. The tree removals are insignificant and it is not considered necessary to condition replacement planting.

**ECDC Waste Strategy** – East Cambs will not enter private property to collect waste or recycling, therefore it would be the responsibility of the owners/residents to take

any sacks/bins to the public highway on the relevant collection day. ECDC as a Waste Collection Authority is permitted to make a charge for the provision of waste collection receptacles. This contribution is currently set at £43 per property.

5.2 Neighbours – Site notice posted and 5 neighbouring properties were notified and the responses received are summarised below. A full copy of the responses are available on the Council's website.

Comments received from No. 38 Trinity Close raising the following points:

- In principle do not object, but have concerns regarding heavy vehicles accessing the site. The driveway was built for private cars and any heavy vehicle or plant must pass within 6 feet of No. 38 and there are concerns that this could cause possible structural damage to the property.
- The garage to be demolished is one of a pair, the other belonging to No. 38.
- It is expected that any resulting damage will be made good or a new garage erected.

Objections received from 2 Frowd Close, 26 Trinity Close, 27 Trinity Close and 56 Trinity Close raising the following points:

- The application is a repeat of previously unsuccessful applications and nothing has changed
- The access brings vehicles across the driveway and under the front windows of No. 38. If that neighbour chose to properly delineate/fence their own driveway, proper vehicular access would not be achievable.
- The neighbours previously spoke out at the planning meeting but may not be able to do so again.
- The development goes against established building lines and would intrude on our rear garden and rear of the house resulting in loss of privacy, overlooking, with the proposed development over shadowing and overbearing.
- Established trees would be lost.
- There is land available within Fordham for housing.
- The land has been purchased from the Trinity Close Ltd Company on the condition that it would be used for residential garden or children's play area only.
- An application to change the designation of the land was made without the knowledge of the Ltd Co. Ask that this is taken into consideration.
- On purchasing the land the applicant gave his word he would not build on the land.

## 6.0 The Planning Policy Context

### 6.1 East Cambridgeshire Local Plan 2015

GROWTH 2	Locational strategy
GROWTH 3	Infrastructure requirements
GROWTH 5	Presumption in favour of sustainable development
HOU 2	Housing density
ENV 2	Design
ENV 4	Energy efficiency and renewable energy in construction
ENV 7	Biodiversity and geology
ENV 8	Flood risk

ENV 9	Pollution
COM 7	Transport impact
COM 8	Parking provision

6.2 Supplementary Planning Documents

Developer Contributions and Planning Obligations  
Design Guide

6.3 National Planning Policy Framework 2012

- 6 Delivering a wide choice of high quality homes
- 7 Requiring good design

7.0 PLANNING COMMENTS

7.1 The main issues to consider in the determination of this application are the principle of development; impacts of the proposal on residential amenity and visual amenity; and highway safety.

7.2 **Principle of Development**

7.2.1 The local planning authority is not currently able to demonstrate that it has an adequate five year supply of land for housing. Therefore, all Local Planning policies relating to the supply of housing must be considered out of date and housing applications assessed in terms of the presumption in favour of sustainable development set out in the National Planning Policy Framework. This means that development proposals should be approved unless any adverse effects of the development significantly and demonstrably outweigh the benefits.

7.2.2 The benefits of this application are considered to be: the provision of a residential dwelling built to modern, sustainable building standards and the positive contribution to the local and wider economy in the short term through construction work.

7.2.3 The site is located within the established development framework of Fordham, in a built-up residential area close to the facilities and services on offer in the settlement. For the purposes of assessing the proposal in relation to the presumption in favour of sustainable development, the site is therefore considered to be in a sustainable location.

7.2.4 It should be noted that all other local plan policies and relevant material considerations remain relevant and form part of the planning balance for this application.

7.3 **Planning history**

7.3.1 There is an extensive planning history associated with the site, beginning with the change of use of the land from open space to residential garden area in 1987. A planning condition was attached to the 1987 grant of planning permission stating that no further development could take place on the site unless otherwise agreed in

writing by the local planning authority. The reason given for this condition being imposed was *'to retain control over the construction of any buildings or other structures which might significantly harm the character of this area of the estate'*.

- 7.3.2 A number of comments have been received from the general public regarding the purchase of the land by the applicant from the estate management company and any restrictions that might have been placed on the future development of this land by this transaction.
- 7.3.3 The applicant has supplied copies of correspondence received from the Council's Solicitor in 1990, which states that the land was released from the covenants contained within a conveyance of the land made in 1967.
- 7.3.4 Notwithstanding the above, any legal restrictions on the future development of the land do not form a material planning consideration in the determination of this application and should planning permission be granted at this time, the applicant would need to ensure that all other relevant consents or permissions are obtained prior to the implementation of any consent.
- 7.3.5 Since the 1987 change of use application, four applications have been made for the construction of a dwelling on the site, three of which have been refused and one having been withdrawn. The most recent application was made in 2004.
- 7.3.6 Of particular note in the determination of this application is an appeal against the refusal of planning permission for a single storey dwelling in 1991/92. The appeal was dismissed by the Planning Inspector and the conclusions reached in respect of the impact of the proposal on residential amenity and visual amenity have been taken into account in the assessment of these issues as detailed below.

#### 7.4 **Residential Amenity**

- 7.4.1 Policy ENV2 of the Local Plan states that development proposals should ensure that there is no significantly detrimental effect on the residential amenity of nearby occupiers and that future occupiers enjoy high standards of amenity.
- 7.4.2 The proposals considered in 1990, 1991 and 2004 were all for a similar proposal with access to the proposed dwelling across an existing driveway utilised by the occupiers of the host dwelling and occupiers of No. 38 Trinity Close. This arrangement involves the creation of a vehicle parking and turning area to the north-east and south of the site. These areas could be screened from No. 38 but would be relatively close to the side of No. 37, the host dwelling.
- 7.4.3 There would be additional vehicular movements in connection with the proposed dwelling and this represents an intensification of the use of the access. The Planning Inspector in 1992 took the view that the proximity of the driveway and turning area to the existing bungalows would result in significant harm being caused to the living conditions of the adjacent residents through noise and disturbance.
- 7.4.4 The proposal was refused planning permission in 2004 on a number of grounds. One of these grounds was the fact that it was considered that it would have a

detrimental impact on the amenities of the adjacent residential properties by virtue of their proximity to the access and the situation of the proposed dwelling.

- 7.4.5 There has been no substantial change to planning policy or guidance in the intervening period since 1990 that would justify allowing a proposal that would have a significantly detrimental impact on the residential amenity of nearby occupiers. In addition, there has been no substantive change in this proposal that would reduce the impact of the scheme on the neighbouring occupiers. For this reason it is considered that the proposal fails to comply with Policy ENV2 of the Local Plan.
- 7.4.6 The size of the plot accords with the guidelines set out in the East Cambridgeshire Design Guide Supplementary Planning Document (SPD) as does the footprint of the dwelling and the amount of amenity space available for future occupiers of the proposed dwelling. There are however two storey dwellings to the west of the site and in 2004 it was considered that the site would be significantly overlooked by these dwellings, resulting in low levels of privacy. Again, there has been no substantive change in the proposal or the surrounding development that improves this situation, and this weighs heavily against the proposal in the planning balance.

## **7.5 Visual Amenity**

- 7.5.1 Policy ENV2 of the Local Plan requires the location, layout, scale, form and massing of a proposal to relate sympathetically to the surrounding area. The policy also advocates the need to develop in a comprehensive way, avoiding uncoordinated piecemeal development. The East Cambridgeshire Design Guide SPD also contains a reference to back land development. Whilst this application involves the construction of a dwelling to the side of the host dwelling, similar principles will apply.
- 7.5.2 The Design Guide SPD states that backland development will only be acceptable if:
- It is supported by a contextual analysis of the area;
  - There is sufficient space to allow for an access road;
  - There is adequate protection against noise and disturbance for the host dwelling;
  - Consideration has been given to the inclusion of adjacent land, to avoid piecemeal development;
- It is also noted that the fact that there may be space within the curtilage to construct a dwelling will not, in itself, be sufficient justification for doing so and that there can be no presumption that large houses in extensive curtilages should be able to subdivide the garden ground into smaller plots.
- 7.5.3 At the time of the 1991/92 appeal, the Council had specific policies relating to backland development and the fact that it would be resisted where it would have an adverse effect on the amenity of adjacent properties. There is also an acknowledgement of the fact that difficulties can be encountered forming satisfactory access to the site.
- 7.5.4 Whilst specific policies relating to backland development have been amended since 1991/92 and 2004, it is considered that the basic principles remain the same and

that the guidelines set out in the Design Guide SPD are relevant in the determination of this application.

- 7.5.5 In 1991/92 the Planning Inspector stated that he did not consider that the proposal would detract generally from the relatively spacious feeling on the estate. However, it was recorded that a dwelling on the appeal site would lie behind the building lines of both the rows of properties which converge in this corner location. The layout of the site in 1991/92 was similar to that being proposed now, with the garden area to the south-east. The Planning Inspector took the view that as the garden would not appear in views from the highway, the dwelling would appear cramped. He went on to say that *“the proposed dwelling would appear as an alien feature in relation to the estate layout, would not fit well into its surroundings, and that it would cause significant harm to the character and appearance of the area”*.
- 7.5.6 The size of the dwelling has decreased from that proposed in 1990 and 1991 with a two bedroomed dwelling now proposed rather than a three bedroomed dwelling. A similar change was made in 2004, however, this change was not considered to overcome the previous reasons for refusal. In 2004 it was considered that the lack of road frontage and substandard access and its associated impacts were adequate planning reasons for refusal.
- 7.5.7 An assessment of the visual impacts of the proposal at this time leads to a similar conclusion. The proposal has not been supported by a contextual analysis of the area and the sites corner position means that a similar layout to that previous proposed is suggested. With the exception of the removal of the garage belonging to the host dwelling there is no scope for improving the access. There is no material change in the proposal that would overcome the previous reason for refusal that the proposed development would represent an unacceptable cramped form of infill development within a restricted residential garden which lacks appropriate road frontage. On this basis it is considered that the proposal fails to comply with the requirement for the location, layout, scale, form and massing of a development to relate sympathetically to the surrounding area. The proposal is therefore contrary to policy ENV2 of the Local Plan in this regard and this weighs against the proposal in the planning balance.

## **7.6 Highway Safety**

- 7.6.1 The Local Highway Authority is satisfied that the proposal would not have a significant adverse effect on the public highway. There is sufficient space for additional parking to be provided to the front of both Nos. 37 and 38 if necessary and the intensification of the use of the access is not considered to have an adverse effect on highway safety. The proposal therefore complies with policy COM7 of the Local Plan in this regard.
- 7.6.2 The proposal includes sufficient space for two vehicles to park within the application site together with space for vehicles to manoeuvre and lave the site on forward gear. The proposal therefore complies with policy COM7 in relation to access to the highway network and policy COM8 in relation to parking provision.



7.6.3 If the application were to be approved, the Local Highway Authority has recommended a condition relating to the provision of a construction traffic management plan.

## 7.7 **Other matters**

7.7.1 The Council's Arboricultural Officer has been consulted on the application as it involves the removal of two trees from the site. These removals are considered to be insignificant and no objection to the proposal has been made. Although the Arboricultural Officer has not recommended the use of a condition to secure the replacement of these trees, it is considered that the implementation of a soft landscaping scheme could be secured by condition and is necessary to assimilate the development into its surroundings.

7.7.2 The site is not located within a flood risk area, however, the local planning authority is responsible for ensuring that suitable surface water drainage measures are implemented and this can be secured by condition. The requirement to submit a contaminated land assessment can also be secured by way of a condition, as can the provision of energy efficiency measures and the requirement to undertake an archaeological investigation.

7.7.3 The fact that there may be other land available within the village of Fordham does not preclude this site from coming forward. Each site is assessed on its own merits and the relevant issues in the determination of this application have been addressed in this report. The issue of potential damage to the adjoining garage and the making good of that structure once it becomes a standalone building, are not planning matters and are private civil matters that would need to be addressed between the two landowners.

## 7.8 **Planning balance**

7.8.1 The proposal would give rise to an important benefit in the provision of much needed housing, which should be afforded significant weight in the planning balance. The proposal would also give rise to direct and indirect economic benefits, which should also be given weight. These benefits have to be set against the harm that would arise if the proposal was to go ahead. The proposal would significantly harm the residential amenity of nearby occupiers and the amenity of future occupiers would be harmed by the presence of adjacent development. Such harm attracts significant weight in the planning balance. The adverse impacts on the visual amenity of the area also attract weight against the proposal. Taken together, these adverse effects outweigh the benefits of the proposal. The proposal is therefore recommended for refusal for the reasons set out at the beginning of this report.

## 8 **APPENDICES**

1. Planning Inspectors Decision Letter 6 February 1992
2. Decision Notice 22 December 2004

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<b><u>Background Documents</u></b>	<b><u>Location</u></b>	<b><u>Contact Officer(s)</u></b>
Application Files 15/00950/FUL 04/01184/OUT 04/00634/OUT	Julie Barrow Room No. 011 The Grange Ely	Julie Barrow Planning Officer 01353 665555 julie.barrow@eastcambs.gov.uk