



20/00853/FUL

**4B West Drive Gardens Soham  
East Cambridgeshire District Council**

Date: 13/10/2020 Scale:1:1.50

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**MAIN CASE**

**Reference No:** 20/00853/FUL

**Proposal:** Single storey conservatory/garden room extension with small observatory above, together with insertion of small window within apex of south facing gable of detached garage

**Site Address:** 4B West Drive Gardens Soham Ely Cambridgeshire CB7 5EF

**Applicant:** Drs Charles and Susan Whyte and Stepney

**Case Officer:** Molly Hood, Planning Officer

**Parish:** Soham

**Ward:** Soham North  
Ward Councillor/s: Victoria Charlesworth  
Alec Jones

**Date Received:** 3 July 2020      **Expiry Date:** 11 November 2020  
[V93]

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1.0 **RECOMMENDATION**

- 1.1 Members are recommended to refuse the application for the following reason:
- 1 The proposed roof terrace and observatory due to its proximity to the surrounding neighbouring properties and raised platform would cause significant and demonstrable harm to the residential amenity of neighbouring occupiers, due to the loss of privacy and overlooking. This is contrary to policy ENV2 of the Local Plan 2015 and paragraph 127 (f) as significantly detrimental impacts on the residential amenity of current and future neighbouring occupiers would occur as a result of the development.

2.0 **SUMMARY OF APPLICATION**

- 2.1 The application seeks permission to construct a conservatory off the western side elevation, with a terrace and observatory situated above. The conservatory would protrude 3.8m (12.4ft) from the existing elevation and span 6.2m (20.3ft) across the side elevation, with a ridge height of 2.8m (9.1ft). The roof terrace would cover the entire length and width of the conservatory and include an observatory. The observatory would measure 2.45m (8ft) in height. In addition, the application seeks

permission to include a single window on the southern elevation of the detached garage.

- 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.eastcambs.gov.uk/online-applications/>. **Alternatively a paper copy is available to view at the East Cambridgeshire District Council offices, in the application file.**
- 2.2 The application has been called into Planning Committee by Councillor Jones as it was felt there was no significantly detrimental effect on the residential amenity of nearby occupiers.

### 3.0 PLANNING HISTORY

09/00028/VAR	Application under Section 73 of the Town & Country Planning Act 1990: Variation of condition 11 of planning permission E/97/00896/FUL - "Existing vegetation along site boundary shall not be uprooted or removed"	Approved	25.02.2009
08/00459/VAR	Application under Section 73 of the Town & Country Planning Act 1990: Variation of Condition No: 11 of Planning Permission E/97/00896/Ful - to vary the boundary treatment	Approved	03.07.2008
97/00896/FUL	Erection of detached house and garage	Approved	05.03.1998

### 4.0 THE SITE AND ITS ENVIRONMENT

- 4.1 The application site is a detached dwelling situated within the settlement boundary of Soham and is located in a residential area, with neighbouring properties to the west, south and east. The site currently forms a detached two storey dwelling, with a wrap around curtilage and a gravelled parking area to the front. The western boundary has an existing 2.5m leylandii hedge.

### 5.0 RESPONSES FROM CONSULTEES

- 5.1 Responses were received from the following consultees and these are summarised below. The full responses are available on the Council's web site.

**Parish - 30 July 2020**

Soham Parish Council requested that restrictions are put in place to prevent the occupiers overlooking and or looking into neighbouring properties.

**Ward Councillors - No Comments Received**

**Cadent Gas Ltd - 14 July 2020**

Searches based on your enquiry have identified that there is apparatus in the vicinity of your enquiry which may be affected by the activities specified. Please inform Plant Protection, as soon as possible, the decision your authority is likely to make regarding this application. If the application is refused for any other reason than the presence of apparatus, we will not take any further action.

Due to the presence of Cadent and/or National Grid apparatus in proximity to the specified area, the contractor should contact Plant Protection before any works are carried out to ensure the apparatus is not affected by any of the proposed works.

**Your Responsibilities and Obligations**

The "Assessment" Section below outlines the detailed requirements that must be followed when planning or undertaking your scheduled activities at this location. It is your responsibility to ensure that the information you have submitted is accurate and that all relevant documents including links are provided to all persons (either direct labour or contractors) working for you near Cadent and/or National Grid's apparatus, e.g. as contained within the Construction (Design and Management) Regulations.

It is YOUR responsibility to take into account whether the items listed may be present and if they could be affected by your proposed activities. Further "Essential Guidance" in respect of these items can be found on either the National Grid or Cadent website.

**Cadent Gas Ltd - 15 July 2020**

Cadent have identified operational gas apparatus within the application site boundary. This may include a legal interest (easements or wayleaves) in the land which restricts activity in proximity to Cadent assets in private land. The Applicant must ensure that proposed works do not infringe on Cadent's legal rights and any details of such restrictions should be obtained from the landowner in the first instance.

If buildings or structures are proposed directly above the gas apparatus then development should only take place following a diversion of this apparatus. The Applicant should contact Cadent's Plant Protection Team at the earliest opportunity to discuss proposed diversions of apparatus to avoid any unnecessary delays.

If any construction traffic is likely to cross a Cadent pipeline then the Applicant must contact Cadent's Plant Protection Team to see if any protection measures are required.

All developers are required to contact Cadent's Plant Protection Team for approval before carrying out any works on site and ensuring requirements are adhered to.

**Conservation Officer - 9 July 2020**

No heritage implications.

5.2 Neighbours – sixteen neighbouring properties were notified and no responses were received.

6.0 The Planning Policy Context

6.1 East Cambridgeshire Local Plan 2015

ENV 1 Landscape and settlement character

ENV 2 Design

COM 8 Parking provision

6.2 Supplementary Planning Documents

Design Guide

6.3 National Planning Policy Framework 2019

12 Achieving well-designed places

6.4 Planning Practice Guidance

PLANNING COMMENTS

7.1 The main considerations with this proposal are the impact to residential amenity and the visual amenity of the dwelling and area.

7.2 **Residential Amenity**

7.2.1 Policy ENV2 of the East Cambridgeshire Local Plan 2015 requires proposals to ensure that there are no significantly detrimental effects on the residential amenity of nearby occupiers. Additionally, paragraph 127(f) of the NPPF requires proposals to ensure that they create safe, inclusive and accessible development which promotes health and wellbeing and provides a high standard of amenity for existing and future users. The inclusion of a single window on the southern elevation of the detached garage is not considered to overlook the neighbouring property.

7.2.2 No.43 is a detached dwelling with curtilage surrounding all elevations. Firstly, the proposal would introduce a conservatory to the west, protruding 3.8m (12.4ft) from the original side elevation and with a ridge height of 2.8m (9.1ft). A distance of 7.5m (24.6ft) would separate the western elevation of the conservatory and the western boundary. The scale minimises any concerns of overbearing or overshadowing impacts and the separation distance to the boundary also supports minimal residential amenity impacts from this single storey structure. Whilst it is noted that the proposal will contain a significant portion of glazing on the west and south elevation, the height of the conservatory reduces any loss of privacy or overlooking impacts. The extremely tall boundary hedge, does also significantly reduce impacts to the western properties. Even if the hedge was not there, a 1.8m (6ft) `boundary

fence would be sufficient to reduce overlooking or loss of privacy to those adjacent occupiers.

7.2.3 The proposal also includes development to the roof space of the proposed conservatory and this is where the harm to residential amenity is considered to occur. The first floor additions to the conservatory include forming a roof terrace and within this space an observatory. The roof terrace would span the entire length and width of the conservatory, measuring 3.8m (12.4ft) by 6.2m (20.3ft). The scale of the space and introduction of the observatory would encourage frequent use, establishing an outside space which is frequently used. The principle of a terrace with observatory is entirely different to the first floor bedroom windows which currently project on this elevation, as a bedroom window offers a glimpsing view, however a terrace encourages use for long periods of time. A terrace and bedroom window are principally very different matters.

7.2.4 The applicant has raised the point around the existing 2.5m boundary hedge and the screening that this provides to the western neighbours. This hedge was conditioned under the existing planning permission (No. 97/00896/FUL) and later varied to allow maintenance (No. 09/). The condition from 09/ reads as:

*'Except where directly affected by such access requirement as may be approved by the Local Planning authority the boundary treatment to the western, southern and eastern boundary boundaries shall be as shown on drg no 08114-19/001 Rev B and maintained as such.'*

7.2.5 The hedge was conditioned to protect residential amenity of the western properties, when the dwelling was originally granted permission, particularly the first floor bedroom windows and the curtilage space. Whilst it is acknowledged that there is an existing condition on the hedge, there are two reasons why it is not considered sufficient to protect residential amenity for current or future surrounding occupiers. Firstly, the condition does not reference in perpetuity and therefore raises concern as to the longevity of the hedge. In addition, the hedge is conditioned to be 2.5m in height and whilst at its height of 2.5m it does obscure views, it is not a lasting structure. Therefore, if the hedge was to dieback, it will take a significant time for any replacement planting to grow to the 2.5m height and therefore during this period, result in significantly detrimental overlooking and loss of privacy to surrounding occupiers.

7.2.6 Furthermore, the dwellings to the south-west are considered to be at risk from detrimental overlooking and loss of privacy from the presence of the terrace and observatory. Whilst the proposal does indicate 1.8m metal post and obscure glass screens on the southern side of the terrace, it is considered these are not sufficient to minimise the full extent of overlooking to those south-western properties.

7.2.7 The hedge was conditioned to protect residential amenity of those westerly neighbouring properties from the property in its current form. Therefore, to add an aspect of development which could be considerably more harmful to those surrounding occupiers, would be detrimental to protecting residential amenity and contrary to policy ENV2. The measures suggested by the applicant, are not considered to be sufficient to reduce the residential amenity impacts from the proposed first floor development and as such the proposal is contrary to policy ENV2 and paragraph 127(f) of the NPPF.

### 7.3 Visual Amenity

- 7.3.1 Policy ENV2 requires all development proposal to be designed to a high quality, enhancing and complement the local distinctiveness and public amenity by relating well to existing features and introducing appropriate new designs. Furthermore, Policy ENV1 of the Local Plan 2015 requires proposals to ensure that location, layout, scale, form, massing, materials and colour relate sympathetically to the surrounding area and each other.
- 7.3.2 The proposed conservatory, terrace and observatory will create a change to the existing appearance of the dwelling within the street scene. However, as the dwelling is accessed from a private drive off West Drive Gardens the proposal would not be visible from the streetscene. The proposal would be subservient to the scale of the existing dwelling house and whilst it would be a prominent feature on the side of the dwelling, it is not considered to be significantly detrimental or compromise the appearance of the property.
- 7.3.3 The proposal will sympathetically relate and its location, scale and massing would not overpower the existing dwelling, complying with the Design Guide SPD, policies ENV1 and ENV2 of the Local Plan 2015.

### 7.4 Hedge

- 7.4.1 The applicants wanted to further condition or protect the hedge with a Tree Preservation Order, to ensure residential amenity of neighbouring properties were protected. However, these routes were not considered feasible or adequate to protect residential amenity, as dieback could occur and any replacement planting would take time to establish at 2.5m in height.
- 7.4.2 The Trees Officer provided the following comments:

*In theory a well maintained conifer hedge could endure for 100yrs, the trouble is that often they are not maintained as regularly as this one has been and that is when problems occur. If a hedge of this type is not trimmed twice a year every year it will soon become unsightly and out of control and once it gets to a certain size it won't be possible to reduce it sufficiently without killing it, at which point an application for its removal will be made. Not cutting this hedge for 5yrs would likely lead to this situation. As conifers grow they shade out their internal branches meaning that they are only green on the periphery of the plant and if cut back beyond the green area they will not regenerate new growth essentially making them dead. For this reason I would agree that a conifer hedge is not a long term solution to screening.*

- 7.4.3 Whilst this hedge has been well maintained, it has been on the site for at least 23 years, as it was conditioned on the original application 97/00896/FUL. The original condition from 97/00896/FUL advised 'Existing vegetation along site boundary shall not be uprooted or removed', therefore the age of the hedge is greater as it was already present on the site. Whilst the Tree Officers comments give an estimate on the lifetime of a well-maintained hedge, it does confirm that the conifer hedge is not a long term solution. The development will outlive the hedge and whilst the hedge may

currently protect some residents' amenity, it is not a guaranteed long term solution, putting current or future residents at risk.

## 7.5 **Planning Balance**

7.5.1 The proposal would result in significant harm to the residential amenity of the surrounding occupiers. Adverse impacts are considered to occur to the south-west and western neighbouring properties residential amenity, through overlooking and loss of privacy. The proposal is contrary to policies ENV1 and ENV2 of the East Cambridgeshire Local Plan, as well as paragraph 127(f) of the NPPF. The harm caused by the proposal is considered to outweigh any benefits and therefore the application is recommended for refusal.

## 8.0 **Costs**

8.1 An appeal can be lodged against a refusal of planning permission or a condition imposed upon a planning permission. If a local planning authority is found to have acted unreasonably and this has incurred costs for the applicant (referred to as appellant through the appeal process) then a cost award can be made against the council.

8.2 Unreasonable behaviour can be either procedural ie relating to the way a matter has been dealt with or substantive ie relating to the issues at appeal and whether a local planning authority has been able to provide evidence to justify a refusal reason or a condition.

8.3 Members do not have to follow an officer recommendation indeed they can legitimately decide to give a different weight to a material consideration than officers. However, it is often these cases where an appellant submits a claim for costs. The Committee therefore needs to consider and document its reasons for going against an officer recommendation very carefully.

8.4 In this case Members' attention is particularly drawn to the following point:

The site is closely situated to a number of residential dwellings, meaning the observatory and terrace would result in overlooking and loss of privacy.

## 9.0 **APPENDICES**

9.1 None

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<b><u>Background Documents</u></b>	<b><u>Location</u></b>	<b><u>Contact Officer(s)</u></b>
20/00853/FUL	Molly Hood Room No. 011	Molly Hood Planning Officer
09/00028/VAR 08/00459/VAR 97/00896/FUL	The Grange Ely	01353 665555 molly.hood@eastca mbs.gov.uk

National Planning Policy Framework -

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/6077/2116950.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf)

East Cambridgeshire Local Plan 2015 -

<http://www.eastcambs.gov.uk/sites/default/files/Local%20Plan%20April%202015%20-%20front%20cover%20and%20inside%20front%20cover.pdf>