

Our Ref: 23/03204/OUT



(E-mail only)

31 January 2025

South Cambridgeshire Hall
Cambourne Business Park
Cambourne
Cambridge
CB23 6EA

www.scambs.gov.uk

Dear Guy

Outline application (with all matters reserved) for the demolition of existing buildings and structures and redevelopment of the site for a new local centre (E (a-f), F1(b-f), F2(b,d)), open space and employment (office and laboratory) floorspace (E(g)(i)(ii) to the ground floor and employment floorspace (office and laboratory) (E(g)(i)(ii) to the upper floors, along with supporting infrastructure, including pedestrian and cycle routes, vehicular access, car and cycle parking, servicing areas, landscaping and utilities. (The Development is the subject of an Environmental Impact Assessment)

Beehive Centre Coldhams Lane Cambridge CB1 3ET Cambridgeshire

I refer to our meeting of 28 January to discuss officers' concerns in relation to the daylight, sunlight, and overshadowing impacts of the Beehive scheme on neighbouring residential occupiers.

As you are aware, officers have prepared a committee report which recommends refusal of the application on the grounds of its likely residential amenity impacts. The range of residential amenity impacts include matters of sunlight, daylight, overshadowing and enclosure. The report is due to be published shortly and has been subject to Counsel review. Matters relating to this specific correspondence have also been discussed with Counsel.

By way of background to this letter, in forming a view as to the acceptability of the proposal, the Council commissioned its own independent peer review by Schroeders Begg of your client's eb7 Daylight and Sunlight assessments of August and November of last year. Eb7's 29th Nov. addendum was brought about following officers' concerns regarding daylight, sunlight and overshadowing impacts in our meeting with you on the 13 Nov. Significant adverse harm is shown in the August eb7 report, which itself does not suggest that any daylight, sunlight or overshadowing advice informed the revised proposal. The draft Schroeders Begg peer review was shared with you earlier this week and in its final form is intended to be placed on the public file in due course.

During our meeting of the 28th January, you proposed addressing the daylight, sunlight and overshadowing concerns through an update to the Design Code and/or a condition with a requirement that no impacts beyond the worst-case scenario of the 'Illustrative Masterplan Scheme' referred to in the eb7 Daylight and Sunlight Report should arise. This approach has been revised in your subsequent email of the 29 January, which suggests the following condition:

Any reserved matters application for Buildings 8, 9 and 10 (or any one of them) as identified on Drawing 'Parameter Plan 1 ' Land Use-Ground Floor' PO – LDA – ZZ – XX -DR – A – 08004 P2' shall be accompanied by a daylight sunlight and overshadowing report which shall test the daylight

sunlight and overshadowing effects of such Building or Buildings in accordance with the relevant BRE Guidance: Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice (BR209 2022 Edition).

The daylight sunlight and overshadowing report must demonstrate that the daylight sunlight and overshadowing effects of such Building or Buildings (as applicable) must be no worse than the technical results presented in respect of the illustrative scheme proposals as set out in Appendix 2 of the applicant's daylight and sunlight studies submitted in the eb7 Daylight and Sunlight Addendum report dated 29th November 2024 in relation to each of the identified receptors in that table.

Reason: To ensure the potential daylight, sunlight and overshadowing effects of Buildings 8, 9 and 10 are acceptable in relation to the residential properties in proximity to the site boundary

The suggested condition relies upon illustrative impacts in respect of the Nov. eb7 Addendum report which confines its analysis to St Matthews Gardens and Silverwood Close properties only. It does not seek to remove or adjust the proposed parameters of the proposal but instead is reliant on part of a three-dimensional illustrative scheme which affects only certain properties, which is not before the Council (despite at its request) and which would in a particular part be likely to be smaller in its overall massing envelop than the parameters. At face value, it is an unclear proposition and appears to present an internalised conflict within the application itself, which constitutes EIA development and seeks to deliver a minimum quantum of floorspace within the parameters proposed.

After further consideration, officers cannot agree to the approach for the following reasons:

- The illustrative scheme still results in harm to residential amenity that officers cannot support. There would be moderate and major reductions in daylight to properties within St Matthew's Gardens and Silverwood Close, with many anticipated to experience very low retained levels. Even some minor reductions would lead to low retained levels of daylight to some properties that either experience a good or already constrained standard of amenity, neither of which is any less important to protect. Additionally, one property, No. 38 Silverwood Close, would experience a significant increase in overshadowing to their garden. The overall illustrative harm to residential amenity is unacceptable.
- Whilst the harm identified by the Council is primarily to St Matthews Gardens and Silverwood Close properties, it is not wholly, and other properties as identified in the associated daylight and sunlight assessments would experience adverse harm if the parameters were realised. The Design Code provides no comfort that the heights of the plots would be reduced at RM's stage.
- The condition would not resolve issues of enclosure. It could for example result in any one or more of the building plots 8, 9 or 10 being built out to the maximum parameter, satisfying the conditional BRE requirement for an individual building but still resulting in significant enclosure. In raising this point, officers consider the plots are unlikely to be built out or proposed simultaneously. Furthermore, it is unclear to officers whether building plots outside of 8, 9 or 10 are contributing to the daylight and sunlight issues.
- The illustrative scheme is not what has been submitted for approval. It is informative, not determinative. In contrast, the parameter plans are submitted for approval and define the limits of the development, including maximum building heights, footprints, and massing. If approved, the parameter plans would form an operative part of the planning permission, whereas the illustrative material would not. Once approved, parameter plans become the baseline for assessing compliance under future reserved matters applications or indeed any separate applications for development.
- It is not a robust approach to use illustrative or supplementary material to contradict or

override an approved parameter plan. The illustrative details show just one way in which the development could come forward within the envelope of the parameters. Additionally, while it would not change the position if it were to be shared, officers have not had sight of the fully modelled 'Illustrative Scheme' referred to in the Daylight and Sunlight Report.

- A planning condition requiring no impacts beyond the worst-case scenario of the illustrative scheme would not be acceptable. It would give greater status to unknown illustrative material than the approved parameters, which form the basis of the application. It would introduce a constraint on the development that does not form part of the outline permission, which would be unreasonable. There would also be issues of precision and enforceability, as an illustrative scheme does not represent a fully developed and finalised proposal. It is unclear at this stage what the impacts would be measured and enforced against and what 'worse' would mean in the context of the condition. The proposed condition is neither enforceable nor precise.

Aside from the fundamental concerns above, the proposed approach lacks transparency for stakeholders, such as neighbours, members, or other third parties, in terms of how the issue is being addressed and how the planning permission should be interpreted. This could undermine confidence in the assessment and decision-making processes undertaken, leading to a risk of legal challenge either at this stage or at the reserved matters. In coming to this conclusion, I am also conscious that eb7's analysis has not provided all the relevant information that ought to be required to undertake a thorough independent assessment of the position as claimed, for example plotted daylight contours are missing from the property assessments. Due to the way in which the data has been presented, as you are aware, officers have struggled to understand how the proposal affects individual properties. There are also a significant number of properties in St Matthew's Gardens whose internal room layouts are unknown.

Government Guidance concerning conditions in respect of modifications to plans and other details submitted with an application is as follows:

'If a detail in a proposed development, or the lack of it, is unacceptable in planning terms the best course of action will often be for the applicant to be invited to revise the application. **Where this involves significant changes this may result in the need for a fresh planning application.** Depending on the case, it may be possible for the local planning authority to impose a condition making a minor modification to the development permitted. It would not be appropriate to modify the development in a way that makes it substantially different from that set out in the application.' (officer bold emphasis). (NPPG: Paragraph: 012 Reference ID: 21a-012-20140306, Revision date: 06 03 2014).

In respect of this guidance and overall, the officer view is that the parameters of the application require amendment and that this is best achieved through a fresh application rather than further amendments to this scheme which has been with the LPA for some 18 months. As you are aware, the Council is in receipt of a significant number of third-party objections to the proposal and it may be best that the application proceeds to planning committee. Committee's consideration of the proposal may, in turn, give rise to other issues as part of the debate, which would allow in the event of a refusal, your client the opportunity to address these too as part of a resubmission. Notwithstanding this suggested approach, officers are nonetheless prepared to defend our recommendation as part of appeal proceedings should it prove necessary and if the recommendation carries.

In light of the above, officers are minded to report the application to Planning Committee with a recommendation of refusal on the grounds of unacceptable harm to residential amenity.

Without prejudice

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