

21/01178/FUL

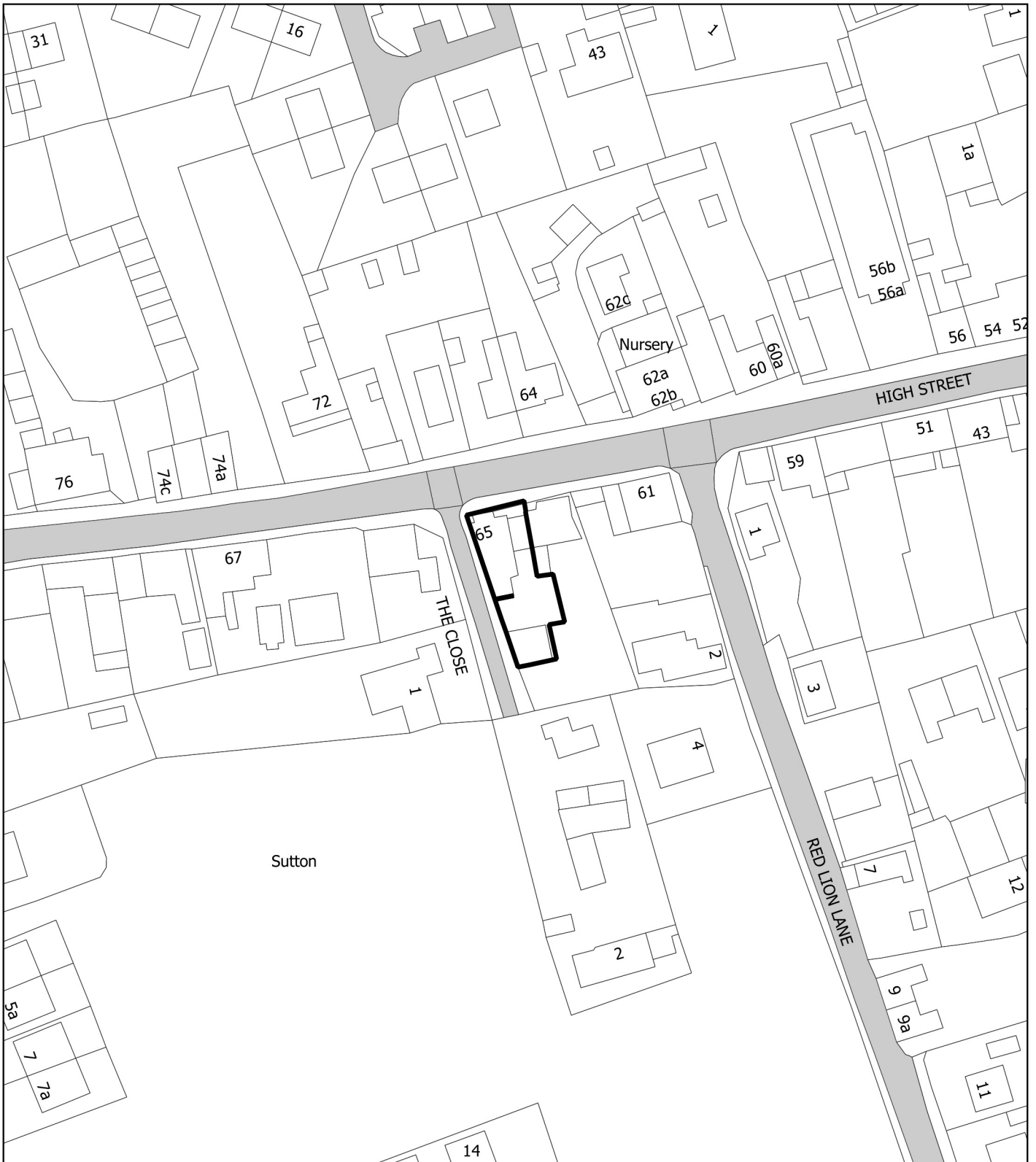
Deli@65
65 High Street
Sutton
Ely
Cambridgeshire
CB6 2NL

New ducting system, odour control measures to existing A1/A3 use with ancillary hot food takeaway, revised opening hours and first floor flat, access, parking and site works

To view all of the public access documents relating to this application please use the following web address or scan the QR code:

<http://pa.eastcambs.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QXK8X6GGM0P00>





21/01178/FUL

Deli@65
65 High Street
Sutton



East Cambridgeshire
District Council

Date: 18/10/2021
Scale: 1:1,000



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MAIN CASE

Reference No: 21/01178/FUL

Proposal: New ducting system, odour control measures to existing A1/A3 use with ancillary hot food takeaway, revised opening hours and first floor flat, access, parking and site works

Site Address: Deli@65 65 High Street Sutton Ely Cambridgeshire CB6 2NL

Applicant: Six And Five Developments

Case Officer: Molly Hood Planning Officer

Parish: Sutton

Ward: Sutton
Ward Councillor/s: Lorna Dupre
Mark Inskip

Date Received: 9 August 2021 **Expiry Date:** 10/11/2021

Report Number W91

1.0 **RECOMMENDATION**

1.1 Members are recommended to APPROVE the application subject to the recommended conditions below:

- 2 Time Limit -FUL/FUM/LBC
- 3 Use Class
- 4 Specified Materials
- 5 Noise
- 6 Operational hours
- 7 Construction times - Standard hours
- 8 Sound insulation
- 9 External plant machinery
- 10 Maintenance
- 11 Waste
- 12 Occupancy restriction
- 13 Garages and parking
- 14 Biodiversity Improvements
- 15 Parking & turning

2.0 SUMMARY OF APPLICATION

- 2.1 The application seeks permission for the construction of a first floor flat above the existing ground floor commercial premises. The application will continue the existing use class of A1/A3 with ancillary takeaway, but seeks permission for the addition of a new ducting system and odour control measures.
- 2.2 The application seeks permission to extend the existing building and add first floor above the existing commercial premises to form 1no. residential flat. The proposal includes raising the ridge height to 5.2m (17ft) and extending above the existing ground floor-built form. The length of built form at first floor will be 10m (32.8ft) in width, as it projects across the existing archway and have a depth of 12.25m (40.1ft). The existing A1/A3 ground floor space will be retained and the residential flat will have a separate entrance.
- 2.3 The new ducting system is proposed on the western elevation and extend up the building to allow the flue to sit above the ridge. The flue will have a width of 0.6m (1.9ft) and extend 1.8m (5.9ft) above the ridge height.
- 2.4 The sites planning history should be noted with this application. The existing use of the A1/A3 use with ancillary hot food takeaway was permitted in 2013 to allow for a deli/café with the hot food takeaway of items such as sausage rolls, soup, sandwiches and similar products. Permission 13/00333/FUL permitted the opening hours of Monday – Saturday 08:00-20:00 and closed on Sunday. A variation was sought in 2015 (15/00091/VAR) to these opening hours and the permitted operational hours for the premises were changed to 07:30-19:00 Monday-Thursday, 07:30-22:00 Friday – Saturday and 10:00-16:00 on Sundays. Some years following this application 19/01635/FUL permitted the construction of a first floor flat and the continuing use of the ground premises as the A1/A3 use with ancillary takeaway. Most recently an application was withdrawn earlier in 2021 for the change of use of the existing café to sui generis to a hot food takeaway, in conjunction with alterations and additions to No.1 first floor flat. Following this withdrawal we now have the current submission which seeks to maintain the A1/A3 use with ancillary takeaway but seeks to introduce a new ducting system, odour control measures and the first floor.
- 2.5 The application has been called into Planning Committee by Councillor Dupré and Councillor Inskip for the following reasons: parking, hours of opening, noise, the compliance with the Sutton Neighbourhood Plan and the possibility of it forming a takeaway.
- 2.6 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/>.

3.0 PLANNING HISTORY

3.1

79/00351/FUL	Erection of building to form new butchers shop and adjoining two storey residence & demolition 7 existing buildings	Approved	11.06.1979
11/01010/FUL	Change of use from A1 (butcher shop) to A5 (take away) and installation of extractor fan	Refused	02.02.2012
12/00814/FUL	Change of use from A1 (butchers shop) to A5 (take away) and installation of extractor fan	Withdrawn	21.09.2012
13/00333/FUL	Change of use from A1 (previous butchers shop) to a deli/cafe (mixed use A1/A3) use with ancillary hot food takeaway (eg sausage rolls, soup, coffee, toasted sandwiches and similar products) and installation of extraction equipment	Approved	07.01.2014
15/00091/VAR	To vary Condition 3 (opening hours) of previously approved 13/00333/FUL for Change of use from A1 to a deli/cafe (mixed use A1/A3) use with ancillary hot food takeaway	Approved	02.04.2015
19/01635/FUL	Continue use of Shop /Cafe with Alterations & Additions to form 1 No. First Floor Flats, Access, Parking & Site Works.	Approved	21.04.2020
21/00220/FUL	Change of Use of Existing Cafe to Sui Generis (Hot Food Takeaway) in Conjunction with Alterations & Additions to form 1 No. First Floor Flat, Access, Parking & Site Works (approved & extant permission - Ref. No. 19/01635/FUL).	Withdrawn	11.06.2021

4.0 THE SITE AND ITS ENVIRONMENT

4.1 The application site is situated within the settlement boundary of Sutton and is situated in an area with a mix of commercial buildings and residential dwellings. The site is also situated within the Conservation Area for Sutton. The site currently forms a single storey building which has a A1/A3 use, with ancillary takeaway, there is a shared access along the east elevation which leads to the two garages and parking for the building.

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.

Environmental Health - 19 August 2021

We have commented on this site in the past and I include our previous comments below for reference.

'The NIA and the Design Specification Document are the same as previously submitted as part of 21/00220/FUL so my comments remain the same as below.

All of my previous comments will still be applicable to this application but if you need to discuss any of them with me I'd be happy to do so.

'I have read the Design Specification Document.

There are several sections which detail the required cleaning and maintenance schedule for each part of the system. I would recommend a condition which stipulates that these schedules must be followed and records kept for inspection when requested.

With regard to odour control, the report advises that there will be a Plasmaclean 4200 ozone unit which will release ozone into the ventilation system to mitigate the odour. As long as the filters are changed in accordance with the manufacturer specification and a yearly service undertaken there shouldn't be an issue with odour from the extract system. The maintenance of this system would also fall under the recommended condition above.

I note the number of neighbour responses concerning noise and odour from the mechanical plant. The applicant has provided supporting information on how these will be mitigated and so I would not wish to object on these grounds. Planning permission does not confer immunity from action under statutory nuisance. Either by local authority or a private individual. This means that if permission is granted and a noise or odour issue is present the Environmental Health department can investigate and require steps be taken to abate the nuisance if it can be evidenced that a statutory nuisance is present.'

Environmental Health – 18 October 2021

You have asked for some additional comments concerning the extract ducting which appears to exit the kitchen through Bedroom

1. The plans indicate that there will be a “fire rated/acoustic enclosure around extract duct” in the Bed 1 which will afford some mitigation.

This isn't an arrangement I have come across before but I have discussed the matter with Karen. I had previously commented on application 19/01635/FUL which was partly to form 2 first floor flats. As long as the condition remains which restricts the occupancy of the proposed flat to those connected with the business I will have no issues to raise with regard to residential amenity of the occupier of the flat above the commercial element but I would recommend the following condition –

“Low frequency noise from the extract system shall not exceed the criteria in any single 1/3 octave-band between 10 Hz and 160 Hz as outlined in Guidance Note NANR 45: ‘Proposed criteria for the assessment of low frequency noise disturbance’ in Bedroom 1.”

I have included the graph below for reference.

I would advise that the best available means are utilised in order to protect the future occupants of the first floor dwellings from noise as if a problem is identified post hoc it is often more costly and difficult to rectify. We do receive complaints from those who live above businesses and so the applicant should utilise the best available methods of insulating the proposed dwellings from sound. This is more of a matter for Building Control but I would advise that the first floor dwellings are assessed for compliance against Approved Document E - Resistance to the passage of sound.

You have asked for additional comments on the proposed opening hours.

I had previously advised that –

“Section 19 of the Application Form states the desired hours of 12:00 – 23:00 Mon – Sunday. Sutton Tandoori which is also located on the High Street has a closing time of 23:00. Taking this in to account I would not feel justified objecting to the proposed opening hours in the Application Form and would request that these times are conditioned if planning is granted.”

It doesn't appear as though this latest application is seeking hours outside of this but please let me know if I've misinterpreted.

You have asked for comments on the new ducting system on number 63 High Street. I had previously advised –

“The report considers the impact on the neighbouring properties – 65a High Street, 1 The Close, 70 High Street. The direct neighbour (63) has not been considered in the report. However, I can see that the location of the kitchen extract is located sensibly away from number 63. Taking this in to account I would expect there to be similar results at number 63 to those found at number 65a.”

You have asked for clarification on Paragraph 4.5 of the NIA –

'The plant equipment would only operate during the daytime period when the kitchen is in use; no plant equipment would operate at night.'

This section of the NIA is specifically talking about the kitchen extract fan and kitchen supply fan and is advising they will not be in use once the kitchen is closed. I see no issue with this statement and have interpreted its purpose as to distinguish itself from other mechanical plant you may find in shops and supermarkets such as inverters which do operate all night to cool fridges and freezers.

Local Highways Authority - 31 August 2021

The layout and access arrangements shown on the drawing 19:105-101 are as per those previously approved under the application 19/01635/FUL. I therefore do not object to this application.

Condition HW14A is recommended.

Waste Strategy (ECDC) - 23 August 2021

No objection, comments added as an informative.

Cambridgeshire Fire And Rescue Service –

No Comments Received

Parish - 26 August 2021

Sutton Parish Council supports the objections and comments made by residents. The Parish Council resolved to outright refuse the application for the following reasons: -

The opening hours proposed by the Applicant: 12.00 - 23.00 seven days a week would be a very significant change to the existing permission (07:30 - 19:00 each Monday to Thursday, 07:30 - 22:00 each Friday to Saturday and 10:00 to 16:00 each Sunday) (Please note the opening hours have already been previously extended to help the viability of the Deli). Extending the hours would have a significant adverse impact on local residential amenity. This extension of opening hours is not referred to in the consultation letter.

The Application Form appears to be applying for a change of use from the existing (a deli/cafe (mixed use A1/A3) use with ancillary hot food takeaway (e.g. sausage rolls, soup, coffee, toasted sandwiches and similar products)) to A3 Restaurant and Café. This change of use is not specifically mentioned in the consultation letter sent out by the Council to local residents. It raises a number of concerns; Councillors may recall that the specific reference to 'ancillary hot food takeaway' was included in the Deli consent to prevent the premises becoming a full blown takeaway.

Detailed concerns relating to the current Application:

1. Page 3 of the Noise Assessment report provided by the Applicant states:
'The closest residential properties to the proposed plant equipment is the two storey house at 65a High Street and the bungalow 1 The Close, both to the west of the proposal site, whilst 70 High Street (two storey house) is opposite the proposed unit to the north.'

We find it surprising that the report makes no reference to the physically adjoining property (No 63), where the bedroom windows will be very close to the extract fan - less than two car lengths away. The District Planning Committee has previously given great weight to the impact on the residential amenity of No 63 when considering and rejecting previous applications. The Parish Council also recommended that the previous Application should be refused, citing the objections of local residents and making specific reference to the impact of the proposed flue. We hope that these extremely valid concerns will not be overlooked - to put an extract flue so close to a neighbour's bedroom window would be downright wrong

2. In Para 4.5 the Noise Assessment Report it is stated that:
'The plant equipment would only operate during the daytime period when the kitchen is in use; no plant equipment would operate at night.'

However, the proposed opening hours are until 11pm every night and no doubt the extract would have to be operated even longer than this - whilst the equipment cools and the kitchen is cleaned. The Assessment report appears to us to be flawed in these respects.

3. The Design Specification (final page) provided by the Applicant, lists the equipment as including:
Indian Cooker, Tandoor, Twin Fryer
The kitchen layout has practically no provision for the preparation space - sandwiches, coffee making, dishwashing etc. that you would expect in a cafe, it is a takeaway food kitchen layout.

Given the pm opening hours proposed and the equipment itemised, it does seem clear that what is being proposed is an Indian Restaurant / Takeaway rather than a Village Cafe.

4. Parking provision for the premises is inadequate. If the two garage spaces are allocated to the residents of the flat this leaves no parking for shop customers, staff and deliveries. There is currently a problem with parking on this part of the High Street with drives being blocked and parking on the pavement causing obstructions.
5. The storage for the premises is inadequate and so it is quite clear that the garages will be used for storage, thus removing the only available parking provision for the shop and flat.
6. The existing permission limits the amount of sales that can be on a takeaway basis, to prevent the premises becoming a takeaway by stealth, and to preserve local residential amenity; this restriction in use should not be lost.
7. We pointed out previously, in response to the last Application in May, that there is no space in the yard which the Applicant can use for storage of waste without causing an obstruction to the adjoining (No 63) owners' access rights (as specified in the title deeds). However, the Applicant has stated once again that there is 'adequate space on site' - this is incorrect.

8. The adverse impact on the Conservation Area of the proposed substantial extract chimney will be significant and was considered a concern by the District Council previously. The views up the hill towards the Village are important and the flue will be very visible.
9. Environmental Health response, has not picked up on the extension to the hours on the application
10. The Sutton Neighbourhood Plan policies need to be taken into consideration for this premises

Policy NP9 - Protecting existing services and facilities

Proposals that will result in the loss of valued facilities or services which support a local community (or premises last used for such purposes) will only be permitted where:

1. it can be demonstrated that the current use is not economically viable nor likely to become viable. Where appropriate, supporting financial evidence should be provided including any efforts to advertise the premises for sale for a minimum of 12 months; and
2. it can be demonstrated that there is no local demand for the use and that the building/site is not needed for any alternative social, community or leisure use; or
3. alternative facilities and services are available, or replacement provision is made, of at least equivalent standard, in a location that is accessible to the community it serves with good access by public transport or by cycling or walking.

Policy NP11 - Retail premises

Planning applications for the loss or change of use of shops (or premises last used as shops) will not be permitted unless it can be demonstrated that the use is no longer viable or that the change of use will not have a detrimental impact on the vitality and viability of the centre. Proposals for new or extended shops or services within the existing centre, as defined on the Proposals Map, will be permitted provided that there is no adverse effect on residential amenity or environmental quality or the role, function and hierarchy of other centres in the district.

Ward Councillors – 13 October 2021

Councillor Dupré and Councillor Inskip- Availability of street parking is already extremely limited in the section of the High Street in Sutton between the Sutton Tandoori restaurant and takeaway (46 High Street), and the Sunrise takeaway (74 High Street) particularly when residents living in the High Street return home in the evening. The existing opening hours for the premises at 65 High Street are limited to the hours of 07:30 - 19:00 each Monday to Thursday, 07:30 - 22:00 each Friday to Saturday and 10:00 to 16:00 each Sunday. The new application, if approved, would revise those opening hours to 23:00 every night of the week and therefore lead to very significant additional pressures on parking on this section of the High Street.

In paragraph 4.5 of the Noise Assessment Report it is stated that:

“The plant equipment would only operate during the daytime period when the kitchen is in use; no plant equipment would operate at night.”

The rated noise levels are calculated to not exceed the typical daytime background noise climate by applying attenuation to the kitchen supply and extract fans. The proposed opening hours are however to 23:00 every evening and it would be expected that the plant equipment would therefore also need to operate until late evening.

The Noise Assessment Report only considers the impact on three neighbouring properties; 65a High Street, 1 The Close and 70 High Street but not the direct neighbour (63).

Policy NP12 – Retail Premises of the Sutton Neighbourhood Plan states that “Proposals for new or extended shops within the existing centre, as defined on the Proposals Map, will be permitted provided that there is no adverse effect on residential amenity or environmental quality or the role, function and hierarchy of other centres in the district.”

The additional kitchen supply and extract fans with operation into the evening, combined with the additional pressures on on-street parking as a consequence of the significant extension to opening hours, will undoubtedly have an adverse impact.

Finally the existing permission limits the amount of sales that can be on a takeaway basis, to prevent the premises becoming a takeaway and to preserve local residential amenity. There is a strong concern from local residents that the significant revisions to the kitchen layout and to the opening hours are intended to allow the premises to primarily operate as a takeaway without explicit approval for such use being requested.

Conservation Officer – 15 October 2021

The application site is a late C20 single storey retail unit located within the Sutton conservation area by default. The proposed addition of a first floor as per 19/01635/FUL does not significantly add to the building’s bulk and two storey buildings are the prevailing norm in the area in any case. The resultant asymmetrical gable strikes a slightly odd note but its position on the return flank elevation is not prominent in the streetscape, so its impact is limited.

Recommendation: no objection

- 5.2 A site notice was displayed near the site on 16 September 2021 and a press advert was published in the Cambridge Evening News on 19 August 2021.
- 5.3 Neighbours – 12 neighbouring properties were notified and 130 responses have been received, which are summarised below. A full copy of the responses are available on the Council’s website.

Use Class

- It appears to be a cynical attempt to gain permission for a hot food takeaway

- The change in opening hours requested and the equipment mentioned all seem more geared towards hot food takeaway than a café.
- There is little room planned for a sandwich/snack type preparation.
- The previous deli/café managed without any specialised ducting system.
- Objections to the last application for a hot food takeaway still apply (traffic and parking, noise, smells, little, over concentration of similar facilities, anti-social behaviour, hours and loss of valued amenity).
- The cold store would be lost to the staircase for the flat and no additional storage provided.

Previous Permissions

- A similar application was considered in 2012 (11/01010/FUL and Planning Committee refused due to residential amenity harm through noise, smell and general disturbance.
- Conservation Officer considered other proposals (11/01010/FUL) with a flue approx. 1m above the ridgeline being too prominent in the streetscene and having an adverse effect on the rooflines.
- Previous application 11/01010/FUL at No.65 High Street for change of use from a butcher to a takeaway was refused on the harm to residential amenity, noise, smell, manoeuvring of vehicles, highway safety, lack of parking and adverse effect on conservation area. Nothing has changed since then.
- The parking spaces were part of the planning Unit when consent was granted for the deli/café (13/00333/FUL).

Residential Amenity

- The extractor ducting system will cause noise and smells.
- Our house (No.63) is down wind of the flue and we fear there will be noise and smells pumped into our bedroom windows at least midnight every night.
- No.63 and No.68 were not mentioned in the Noise Assessment Survey and it doesn't take into account traffic or customer noise.
- The change in opening hours are also of concern, possible for people or noise until midnight. The significant change in hours will result in disturbance.
- The shared yard is a cause for concern, as there is little space in the kitchen and space will be used outside. When the deli-café was there, staff used to sit in the yard because staff have nowhere to go.
- When the premises closes it is often its noisiest due to bins being put out and stores put away.
- The amenity of the residents above will be adversely affected by the proposed ground floor use. Conditioning does not counteract the loss of amenity.
- If the ground floor premises got hot when in use doors would be propped open allowing noise and smells to escape.
- The opening hours are until 11pm and no doubt the extraction would have to be operated even longer than this to allow equipment to cool and kitchen cleaned. The assessment is flawed.

Parking

- Insufficient parking available for a café and three bedroom flat.

- Garages are likely to be used for storage, especially as shop unit has been reduced by 8.2sqm (88.2sqft) which is a reduction in 15% and there is minimal in-shop storage.
- The garage spaces were part of the planning unit when the consent was provided for deli/café and consequently there are being double counted. The same two spaces are being counted for the deli and the flat.
- The driveway is shared with the adjoining property and cannot be used for parking. No.63 has a right of way at all times across the accessway and turning area. The turning area has to be kept clear at all times.
- Vehicles rarely enter the driveway because of the restricted access, slope and the gates.
- The access is also restricted in height by the arch and this limits access for commercial vehicles, meaning they often double parking and obstruct the highway.
- Parking from the Tiddly Tots Playgroup, offices above the playgroup, the sewing shop, hairdresser, sunrise takeaway, tandoori restaurant and takeaway and the delis original permission all have resulted in parking on the High Street. The removal of the land adjacent to No.67 have led to an increase in parking on the High Street as well.
- Access for The Close must remain unobscured for the houses and emergency vehicles.
- Parking on the High Street is already poor with private drives being blocked and danger to pedestrians with vehicles parking on the pavement.
- There are 33 on street parking spaces beside the kerb along the southern edge of Sutton High Street between the Brook and the High Street. Dwellings on the high street do not meet the parking standards of COM8. For new houses the council should be looking for an additional 7 spaces for visitors and 30 spaces for the existing house, as well as a demand for 12 cycle spaces to support the parking needs.
- The increase in traffic in the 20mph High Street zone would be considerable taking into account the trading hours and nature of the business. Increased traffic would affect the whole area.

Area

- Already have takeaway outlets (Indian & Chinese) in this short stretch which generate traffic which create noise, traffic movements and litter. A third food outlet would exacerbate the situation further and its unfair on residents to concentrate the three together.
- When the deli was in operation, the garages were used for storage and staff parked on the high street.
- It would result in overdevelopment of the site.

Conservation Area

- The flue will be very visible from the High Street, the properties in Link Lane and further down the hill.
- Detrimental to the Conservation Area.
- It is in close proximity to the 17th century property No.61 Mill House.

Neighbourhood Plan

- Failed to demonstrate how it complies with the Neighbourhood Plan.

- Contrary to the retail policy and would result in a loss of the A1 retail use within the village location.
- Takes away a social meeting place for the village.
- The delicatessen was a popular facility for local residents.

Waste

- Bins for the flat and the commercial premises would obstruct the access and there isn't provision externally without disrupting the turning area.

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
ENV 1	Landscape and settlement character
ENV 2	Design
ENV 4	Energy and water efficiency and renewable energy in construction
ENV 7	Biodiversity and geology
ENV 8	Flood risk
ENV 9	Pollution
ENV 11	Conservation Areas
COM 7	Transport impact
COM 8	Parking provision

6.2 Sutton Neighbourhood Plan 2019

NP3	Sutton Development Envelope
NP8	Preserving the Historic Characteristics of Sutton
NP9	Protecting existing services and facilities
NP11	Retail premises

6.3 Supplementary Planning Documents

Design Guide
 Developer Contributions and Planning Obligations
 Contaminated Land - Guidance on submitted Planning Application on land that may be contaminated
 Sutton Conservation Area
 Natural Environment SPD
 Climate Change SPD

6.4 National Planning Policy Framework 2021

- 2 Achieving sustainable development
- 9 Promoting sustainable transport
- 12 Achieving well-designed places
- 14 Meeting the challenge of climate change, flooding and coastal change
- 16 Conserving & enhancing the historic environment

6.5 Planning Practice Guidance

7.0 PLANNING COMMENTS

7.1 The main considerations of this application are: principle of development, impact on the conservation area, highways safety, residential amenity and the visual appearance and character of the wider area.

7.2 Principle of Development

7.2.1 The application is assessed in accordance with the development plan which comprises East Cambridgeshire Local Plan 2015 and the Sutton Neighbourhood Plan. Also relevant are the associated Supplementary Planning Documents, the National Planning Policy Framework (NPPF) and the Planning Practice Guidance. On 26th March 2021 East Cambridgeshire District Council issued a Single Issue Review of the East Cambridgeshire Local Plan 2015. One area has been identified as being in need of update, namely Policy GROWTH1 which uses an out of date housing requirement figure. The need to review the Local Plan was triggered by a number of factors including the need to re-examine the appropriate level of housing growth, to ensure there is sufficient housing land supply and to ensure the Local Plan remains up to date. The review focusses on one aspect of the Local Plan only. For the avoidance of doubt, the vast majority of the Local Plan 2015 will not be amended. While the Emerging Plan is at an early stage and carries no weight in the determination of this application, it is worth noting the current policy position.

7.2.2 Policy GROWTH 2 of the Local Plan 2015 sets out the overall strategy for the distribution of growth across the district. The policy is up-to date and aims to ensure that growth takes place in appropriate locations across the district. Within the defined development envelopes housing, employment and other development to meet local needs will normally be permitted, provided there is no significant adverse effect on the character and appearance of the area.

7.2.3 The application site is situated within the defined development envelope for Sutton. The proposal seeks to extend the building and create a first floor, which would accommodate one three bedroom flat. The building was granted permission for an A1/A3 mixed use class, with ancillary takeaway and until recently was used as a deli/café. The application will retain the existing commercial premises at ground floor and to better support the existing commercial premises, the application seeks to introduce a new ducting system. Policy COM 3 and policy NP9 of the Sutton Neighbourhood Plan seek to protect existing services and facilities which are of value to the community. Policy NP9 provides an exhausted list of those community facilities in Sutton, this includes shops, post office, pubs, the primary school, healthcare facilities, community centre, allotments, village hall, indoor sport facilities and public transport. Policy NP9 is very clear and specific about what constitutes a valued facility within the settlement of Sutton. There has been a significant volume of public comments, expressing the importance of this community facility and its previous use as a deli/cafe. In line with Policy NP9, the community facility will be retained and remain unaffected by the proposed residential flat at first floor.

7.2.4 Whilst internal reconfigurations have been made to the ground floor layout, these are not considered to impact the use of the premises as an A1/A3 use, as the new layout provides a greater floor area to the front for seating. The proposal would not result in a loss of employment premises or community facility and the flat would have a separate external entrance, not requiring access through the commercial premises. Future occupiers of the first floor flat would have good access to the services and facilities on offer within the settlement, as such making this a sustainable location. The principal of the proposal is considered to be compliant with policies GROWTH 2 and COM 3 of the Local Plan and NP9 of the Sutton Neighbourhood Plan. The proposal is still subject to all other material planning considerations being satisfied.

7.3 Residential Amenity

7.3.1 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 130(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. A number of neighbour comments have been received expressing concerns over the impacts to residential amenity from noise, odour, customers in the area, disturbance from vehicles and the opening hours. The Parish Council have also expressed concern over the impacts to the extended opening hours and the impact to No.63 from the ducting system.

7.3.2 The proposal would join onto No.63 which has no first-floor windows on the west elevation. It will remain stepped in from the elevation and whilst built form extends 5.2m (17ft), further than the neighbouring properties rear elevation, it is considered to not result in significantly detrimental residential amenity impacts. The ridge height of No.65 would sit lower than No.63 and the rear projection at first floor is a continual sloping roof, meaning that at the full 5.2m (17ft) projection the extension only adds a further 2m (6ft) to the height. In addition, 2.9m (9.5ft) separates the eastern elevation of the extension and the neighbouring property. No.63 has a single storey rear extension which runs parallel to the shared access, creating further separation between the rear projection and the private amenity space. In total there would be 6m between the side elevation of the extension and the private rear curtilage of the adjoining property No.63.

7.3.3 The design, scale and location of the first floor extension is not considered to result in significantly harmful overbearing, overshadowing or oppressive impacts. A first floor side window is proposed on the eastern elevation, however this would serve the hallway and not a habitable room. The rear elevation window, which would serve bedroom 3, is not considered to result in significant overlooking as this would predominantly project across the access, garaging and the roof of the neighbouring dwellings extension. The western elevation window is small in scale and well separated with the neighbouring property due to the road and it is not considered to result in harmful overlooking. The introduction of a first floor flat above the existing commercial premises is not considered to be significantly detrimental to residential amenity and complies with policy ENV2.

7.3.4 As the residential accommodation would be situated above the existing commercial property and the new ducting system will be run up the western elevation,

consideration has to be given to the impact on future occupiers of the flat from the commercial premises. The ducting system is to the west elevation of the building; but will largely remain internal, running into the first floor. There will be segregated internal voids adjacent to the kitchen and bedroom 1, which are accessed via two access doors from the flat. The proposal demonstrates a fire rated and acoustic enclosure around the extract duct and fire rated walls for sections on the kitchen and bedroom. The application includes an Acoustic Report by Sharps Redmore, assessing the noise associated with the fixed plant equipment to surrounding residents.

- 7.3.5 Environmental Health have no concerns with the internal elements of the extraction system providing the occupancy condition is applied to this application, tying the occupation of the flat to the business, as per 19/01635/FUL. Furthermore, Environmental Health have commented on the impact to No.63 High Street after concerns were raised by the neighbour and the Parish Council. The Officer advised the direct neighbour (63) has not been considered in the report. However, the Officer noted that the location of the kitchen extract is located sensibly away from number 63 and taking this in to account it was expected to be similar results at number 63 to those found at number 65a.
- 7.3.6 It is noted there are public concerns of odour. The Environmental Health Officer has considered the affect and is satisfied with the system and procedures put forward, not raising an objection on these grounds. The Environmental Health comments advise there will be a Plasmaclean 4200 ozone unit which will release ozone into the ventilation system to mitigate the odour. As long as the filters are changed in accordance with the manufacturer specification and a yearly service undertaken there shouldn't be an issue with odour from the extract system. There are therefore, no significant concerns of harmful noise or disturbance to the adjoining property of No.63 High Street from the new ducting system as the accommodation of the new flat will sit between the shared wall.
- 7.3.7 Concerns were also raised from the Parish and public comments about the extent the extraction will operate after closing and the noise impacts from this. Paragraph 4.5 of the NIA states - 'The plant equipment would only operate during the daytime period when the kitchen is in use; no plant equipment would operate at night.' Environmental Health have advised that this section of the NIA is specifically talking about the kitchen extract fan and kitchen supply fan and is advising they will not be in use once the kitchen is closed. The Environmental Health Officer saw no issue with this statement and have interpreted its purpose as to distinguish itself from other mechanical plant you may find in shops and supermarkets such as inverters which do operate all night to cool fridges and freezers. There are no significant noise concerns over the extraction system or this operating after the closing time of 11pm.
- 7.3.8 The A1/A3 use class remains the same and the bedrooms for the flat are primarily located over the shared access or storage areas to the rear, not the main seating area for commercial premises below. The application seeks to extend the opening hours to 12:00 – 23:00 Monday – Friday. The existing opening hours for the A1/A3 use are 07:30– 19:00 Monday – Thursday and 07:30 – 22:00 Friday and Saturday, with shorter Sunday openings between 10:00-16:00. The revision moves the window of the activity at the premises further into the evening and will extend opening hours on a Sunday. Consideration of the surrounding commercial premises including the two takeaways, village shop and pub has been taken into account and these vary in closing times

between 22:00 or 23:00. Whilst the proposed opening hours will alter the activity periods at No.65 the hours are not considered to be out of character with the surrounding commercial premises or the use class already permitted for the site. The site is within a mixed residential and commercial area of Sutton and given the floor space the extended evening hours is not considered to result in significant noise or disturbance to the residential amenity of the surroundings occupiers.

7.3.9 In line with the comments from Environmental Health a condition will be applied to ensure adequate sound insulation is provided between the ground floor commercial premises and the first floor flat, as well as the internal walls of the flat along bedroom 1 and the kitchen where the new ducting system will be installed. In addition, a condition will be applied preventing any further mechanical plant from being installed without prior approval from the LPA and Environmental Health have recommended a noise condition. The new opening hours will also be conditioned and the premises will not be permitted to operate outside of those. It is considered that the residential amenity of future occupiers or those existing neighbours would not be significantly impacted by the continuing A1/A3 with revised opening hours or the ducting and odour control measures. As such the proposal is considered to comply with policy ENV2 and paragraph 130(f) of the NPPF.

7.4 Visual Amenity and Heritage

7.4.1 The proposed first floor addition would be notable within the streetscene of the High Street, especially when approaching from the west. The extension would be stepped back from the front elevation of the neighbouring property and the sloping roof design for the rear projection minimises the bulk of the extension. Even with the first floor addition, No.65 is considered to remain subservient to the neighbouring property and the design of the building ensures a dominant level of built form would not be introduced. The immediate streetscene has a large proportion of two storey or one and a half storey buildings, therefore the addition of a first floor would not be out of keeping with the existing context.

7.4.2 Public concerns have been received over the impact of the flue to the character of the area, views from down the hill and the detriment to the heritage assets. As for the new ducting system on the western elevation, this largely remains internal. The louvre and flue pipe are not considered to be harmfully prominent in the streetscene or compromising to the appearance of the building or heritage assets.

7.4.3 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. The brickwork, roof tiles and windows proposed will match those of the original dwelling, ensuring the extension will remain in keeping and similar in appearance. A small section of Marley Cedar Lap Weatherboard in a slate grey is proposed on the front and rear elevations, whilst this is not present on the building, it is not considered to be significantly harmful given the range of materials present within the streetscene.

7.4.4 The site is situated within the Sutton's Conservation Area. The public and Parish Council have raised concern over the adverse impact to the Conservation area from the substantial extract chimney. Policy ENV11 of the Local Plan states that development proposals within Conservation Areas should be of a particularly high

standard of design and materials in order to preserve or enhance the character the area. This is supported by Policy NP8 of the Sutton Neighbourhood Plan, which expects new development to demonstrate how they protect and where possible, enhance the Conservation Area. In addition section 72 (1) of the Listed Buildings and the Conservation Areas Act 1990 requires special attention to be paid to the desirability of preserving and enhancing the character of appearance of an area, with respect to any buildings or other land in a Conservation Area. The Conservation Officer advised the proposed addition of a first floor as per 19/01635/FUL does not significantly add to the building's bulk and two storey buildings are the prevailing norm in the area in any case. The resultant asymmetrical gable strikes a slightly odd note but its position on the return flank elevation is not prominent in the streetscape, so its impact is limited. The proposal, including the flue element, is not considered to result in significant harm to the Conservation Area and would remain in keeping with the character of the area, complying with policy ENV11 of the Local Plan 2015 and NP8 of the Sutton Neighbourhood Plan.

7.4.5 In accordance with paragraph 202 of the NPPF the proposal would give rise to less than substantial harm to the significance of the heritage asset; and there will be limited public benefit.

7.5 Highway Safety

7.5.1 Neighbour concerns were raised over the available parking provision for the ground floor premises and the first floor flat. The public comments have referenced that the parking in the garages has been duplicated and there are safety concerns over the access and the existing demand for parking along the High Street. The Parish Council have raised concern over the parking being inadequate and with the garages being for residents of the flats, it leaves no parking for customers or deliveries. The previous deli/café had no customer parking as the access is gated and it is assumed due to the size of the vehicular access that deliveries would have been kerb side. The proposal would not alter any of the existing situation as the parking to the rear of the site will be still maintained for the employee. Previous application 19/01635/FUL for the first floor flat counted the two garage parking spaces for the residential accommodation as well as employee parking, as the occupancy of the flat was tied to the worker of the commercial use. Therefore, the resident/worker will be the only person needing and permitted to use the garages for parking. A condition will be applied to ensure the garages are only used for parking.

7.5.2 It has previously been considered under application 19/01635/FUL that adequate provision can be provided for two off street parking spaces within the existing garages and there is sufficient space to the front of the garage for turning. Therefore, the proposal would supply appropriate parking facilities for the residential accommodation, complying with policy COM8. Furthermore, it is considered that safe and convenient access can be achieved and the neighbouring property who shares the turning area is not compromised. The Local Highway Authority raised no objection to application and advised the layout and access arrangements shown on the drawing 19:105-101 are as per those previously approved under the application 19/01635/FUL.

7.6 Biodiversity

7.6.1 Policy ENV7 of the Local Plan 2015 seeks to maximise opportunities for creation, restoration, enhancement and connection of natural habitats as an integral part of development proposals. In addition, the Natural Environment SPD seeks to establish biodiversity net gain within proposal. It is noted the site has limited opportunities to incorporate enhancement features. Whilst this application is for full planning permission, it was considered unreasonable to request a full ecological report given the constraints of the site. No.65 is located in the town centre with brick walls to the boundary treatments, apart from the vehicular access point. In addition, the commercial use of the building is likely to add disturbance and there are no landscaping opportunities. It was considered the only viable opportunity to provide enhancement is via elevational bird, bat or insect boxes. As such a condition for biodiversity enhancements can secure these details.

7.7 Climate Change SPD

7.7.1 The recently adopted Climate Change Supplementary Planning Document predominantly focusses on providing additional guidance to the implementation of Local Plan Policy ENV 4 – Energy and water efficiency and renewable energy in construction. Policy ENV 4 states all proposals for new development should aim for reduced or zero carbon development in accordance with the zero carbon hierarchy: first maximising energy efficiency and then incorporating renewable or low carbon energy sources on-site as far as practicable. The opportunity was provided to the agent, however no comments were received. Whilst the Council does encourage the use of measures to improve energy efficiency and the use of renewables, the lack of detail in this application would not warrant refusal.

7.8 Other Matters

7.8.1 Public comments have raised concern over waste storage for the commercial premises and the first floor flat. If the application was to be approved there would need to be a suitable refuse and recycling storage point. It is considered that this can be achieved on the site to the rear of the building, without compromising the turning facilities. It was noted during an Officer site visit that No.63 store their bins within this area as well. Therefore, it can be handled via a planning condition.

7.8.2 Neighbour letters have raised concerns over the viability of the commercial premises as a result of the residential accommodation. In particular, one comment raised concerns over the loss of the cold store and garages. The cold store will remain with the commercial premises and the garages will be retained as parking for the resident/employee of the commercial premises. The agent has confirmed that it is the intention to have the manager/employee living within the accommodation above. This would alleviate parking concerns and the need for more than two off street parking spaces, which can be secured via condition.

7.8.3 A number of public comments and the Parish Council have expressed concern that the application is a change of use to either an A3 restaurant and café or a takeaway and that the A1 use is being lost, contrary to the Neighbourhood Plan. The application is not seeking a change of use to a takeaway and will be maintaining the existing A1/A3 use with ancillary takeaway. It should be noted that an A3 use as defined by the

use class order is a restaurant and café. There is nothing within the application to evidence a change of use and the applicant has confirmed the mixed use will be retained. In addition, the Use Classes Order has been updated since August 2021 and both uses now fall within Class E. Class A1 became E(a) and A3 became E(b). In any event to change the use to a takeaway, a separate planning permission would be required as this now falls as a sui generis use. A condition will be imposed to ensure that the use remains within the confines of A1/A3 use within the new Class E.

7.8.4 The Parish Council comments raise concern over the storage areas and equipment listed for use stating that is more suited for a restaurant /takeaway rather than a village café. However, it should be noted that the authorised use at the premises is an A1/A3 use class meaning it could be a shop, restaurant or café. It is not the responsibility of the Local Planning authority to dictate the equipment or internal layout of the commercial space, the same applies to the storage areas.

7.9 Planning Balance

7.9.1 The proposal is considered to comply with the aims and objectives of policies within the East Cambridgeshire Local Plan, and the 2021 NPPF. The scheme is not considered to result in harm to highway safety, detrimental residential amenity impacts or significant harm to the streetscene and conservation area. Therefore, the application is recommended for ~~refusal~~ approval¹.

8.0 APPENDICES

8.1 Appendix 1: Recommended Conditions

<u>Background Documents</u>	<u>Location</u>	<u>Contact Officer(s)</u>
21/01178/FUL	Molly Hood	Molly Hood
19/01635/FUL	Room No. 011	Planning Officer
21/00220/FUL	The Grange	01353 665555
13/00333/FUL	Ely	molly.hood@eastcambs.gov.uk
11/01010/FUL		
12/00814/FUL		
15/00091/VAR		
79/00351/FUL		

National Planning Policy Framework -

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>

¹ Typographical error corrected by the Case Officer after publication and advised to the Committee on 03/11/21.

21/01178/FUL Conditions:

Approve

1 Development shall be carried out in accordance with the drawings and documents listed below

<u>Plan Reference</u>	<u>Version No</u>	<u>Date Received</u>
Noise Impact Assessment		9th August 2021
Design Specification		9th August 2021
19:105-100		9th August 2021
19:105-101		9th August 2021
EQ1408-899-02		9th August 2021

1 Reason: To define the scope and extent of this permission.

2 The development hereby permitted shall be commenced within 3 years of the date of this permission.

2 Reason: To comply with Section 91 of the Town and Country Planning Act 1990, as amended.

3 The use hereby permitted shall only be used for purposes within Classes E(a) and E(b) of Part A of Schedule 2 of The Town and Country Planning (Use Classes) Order 1987, as amended, and, notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modifications), shall not be used for any other use.

3 Reason: The application has been assessed as being acceptable and complying with development plan policy on the basis of the current proposed uses. Alternative uses, even those within Class E of Schedule 2, would need to be assessed as they may have impacts not considered as part of this application, including on neighbouring premises, highway safety and parking provision.

4 The materials to be used in the construction of the external surfaces of the development shall be either:
a. As detailed on the application form ; or,
b. Submitted to and approved in writing by the Local Planning Authority prior to their use in the construction of the development.

All works shall be carried out in accordance with the approved details.

4 Reason: To safeguard the special architectural or historic interest, character and appearance and integrity of the Conservation Area, in accordance with policies ENV2 and ENV11 of the East Cambridgeshire Local Plan 2015.

5 Low frequency noise from the extract system shall not exceed the criteria in any single 1/3 octave-band between 10 Hz and 160 Hz as outlined in Guidance Note NANR 45: 'Proposed criteria for the assessment of low frequency noise disturbance' in Bedroom 1.

5 Reason: To safeguard the residential amenity of neighbouring occupiers, in accordance with policy ENV2 of the East Cambridgeshire Local Plan 2015.

6 The use hereby permitted shall take place only between the hours of 12:00-23:00 each day Monday to Sunday, Bank Holidays and Public Holidays.

- 6 Reason: To safeguard the residential amenity of neighbouring occupiers, in accordance with policy ENV2 of the East Cambridgeshire Local Plan 2015.
- 7 Construction times and deliveries, with the exception of fit-out, shall be limited to the following hours: 0730 to 1800 each day Monday - Friday, 0730 to 1300 Saturdays and none on Sundays, Bank Holidays and Public Holidays.
- 7 Reason: To safeguard the residential amenity of neighbouring occupiers, in accordance with policy ENV2 of the East Cambridgeshire Local Plan 2015.
- 8 No above ground construction shall take place until a scheme for sound insulation of the building has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to first occupation or commencement of use of the building(s), and thereafter retained in perpetuity.
- 8 Reason: To safeguard the residential amenity of neighbouring occupiers, in accordance with policy ENV2 of the East Cambridgeshire Local Plan 2015.
- 9 No external plant or machinery shall be brought onto the site other than that expressly authorised by this permission.
- 9 Reason: To safeguard the residential amenity of neighbouring occupiers, in accordance with policy ENV2 of the East Cambridgeshire Local Plan 2015.
- 10 In accordance with the Design Specification and Acoustic Consultants Report the maintenance and cleaning procedures shall be adhered to in perpetuity.
- 10 Reason: To safeguard the residential amenity of neighbouring occupiers, in accordance with policy ENV2 of the East Cambridgeshire Local Plan 2015.
- 11 Prior to first occupation of the flat, details of a suitable refuse storage area shall be submitted to the LPA and approved in writing, and thereafter provided and retained in perpetuity.
- 11 Reason: In the interests of highway safety, in accordance with policies COM7 and COM8 of the East Cambridgeshire Local Plan 2015.
- 12 The three bedroom first floor flat hereby approved shall be occupied by a person working full time in the ground floor commercial premises below at No.65 High Street, Sutton.
- 12 Reason: The application has been assessed as acceptable on this basis.
- 13 The garages to the rear of the site shall only be used for parking and remain clear from obstruction at all times.
- 13 Reason: In the interests of highway safety, in accordance with policies COM7 and COM8 of the East Cambridgeshire Local Plan 2015.
- 14 Prior to occupation a scheme of biodiversity improvements shall be submitted to and agreed in writing with the Local Planning Authority. The biodiversity improvements shall be installed prior to the first occupation of the hereby approved development and thereafter maintained in perpetuity.
- 14 Reason: To protect species and sites of nature conservation, in accordance with policies ENV2 and ENV7 of the East Cambridgeshire Local Plan 2015.

- 15 Prior to first occupation or commencement of use of the development sufficient space shall be provided within the site to enable vehicles to enter, turn and leave the site in forward gear and to park clear of the public highway. The area shall be levelled, surfaced and drained and thereafter retained for that specific use.
- 15 Reason: In the interests of highway safety, in accordance with policies COM7 and COM8 of the East Cambridgeshire Local Plan 2015.