

MAIN CASE

Proposal: Demolition of existing timber building and replace with new shop extension (Retrospective).

Location: Griffin Country Store 3 Three Cups Walk Ely Cambridgeshire CB7 4AN

Applicant: Mrs P Williams

Agent: Tony Walton Design

Reference No: 11/00023/FUL and 11/00024/CAC

Case Officer: Yvette Mooney

Parish: Ely
 Ward: Ely East
 Ward Councillor/s: Councillor Brian Ashton
 Councillor Jackie Petts

Date Received: 25 January 2011 Expiry Date: 22 March 2011

[K311]

1.0 EXECUTIVE SUMMARY

- 1.1 This application seeks retrospective consent to demolish the original shed like structure and replace it with a single storey timber frame extension at No.3, Three Cups Walk. The works were carried out during the course of this application and have now, for the most part, been completed.
- 1.2 The main issues to consider when determining this application relate to design, size and scale and the impact of the proposal on the surrounding street scene, Conservation Area, nearby TPO Sycamore Tree and archaeology.
- 1.3 This application has been referred to the Planning Committee due to the unauthorised works that have been progressed, prior to determination of the application, to a property within a sensitive site.
- 1.4 The retrospective proposal is considered to have a neutral affect on the Conservation Area, without positive contribution or harm. This is a lost opportunity to enhance the area, which is an objective of the Ely Master Plan and is recognised in the Conservation Area Appraisal. Whilst it is regrettable that no improvement has been made to the site there is no harm to the character of the area to justify a refusal. On balance, the scheme is recommended for approval subject to conditions.
- 1.5 **A site visit has been arranged for 12:40 prior to the meeting.**

2.0 **THE APPLICATION**

2.1 The application seeks retrospective consent to demolish the original extension and replace it with a slightly larger version.

2.2 The original building, which has since been demolished, had a total floor area of approximately 25 square metres and measured about 2.9m to the ridge. This building has been demolished without consent. There is no planning history relating to this extension.

2.3 The retrospective building is single storey and has a total footprint of approximately 28 square metres and measures about 3.8m to the ridge. The building comprises of a pitched roof element joined to the main building by a flat roof link. The building is clad in timber, painted a pale green colour with roof tiles to match those of the main building.

3.0 **THE APPLICANT'S CASE**

3.1 The applicant's case is set out in the Design and Access Statement, attached at **Appendix 1**.

4.0 **THE SITE AND ITS ENVIRONMENT**

4.1 The application site is located within the Conservation Area and town centre of Ely, at the top of Three Cups Walk, which is a small lane that provides pedestrian access between Forehill and Broad Street.

4.2 The public footpath loops around the site, ensuring that both the southwest and northwest elevations are clearly visible from Three Cups Walk. The main building is two storey, modest in appearance and in keeping with its surroundings. A wall with railings above forms the southwest and north west elevations

4.3 A TPO Sycamore Tree, belonging to the Council, is located on the boundary of the site, approximately 4m from the retrospective building at the closest point.

4.4 Consent was recently granted at Appeal (Application 09/00823/FUL) for new flats on the opposite side of the application site, at the rear of 2A Forehill. These have not yet been built.

5.0 **PLANNING HISTORY**

5.1 01/00227/FUL – Erection of two shop units and one flat over – Approved – 6/6/2001

06/00545/FUL – Renewal of planning permission 01/00227/FUL – Approved – 30/6/2006

6.0 **REPLIES TO CONSULTATIONS**

6.1. PARISH COUNCIL: No concerns

6.2. NEIGHBOURS: No objections received.

6.3. CONSERVATION OFFICER: Recommends refusal. In summary, concerns relate to the design of the scheme. The proposed building is considerably taller than the original, the design appears domestic and is not in keeping with a commercial unit, the doors appear too tall in relation to the front elevation, queries the necessity of the porch as a flush glazed door would increase light and simplify the design etc. Formal comments are attached at **Appendix 2**.

6.4. COUNTY ARCHAEOLOGY: The 'Heritage Statement' outlined within the Design and Access Statement submitted with this application is inaccurate. Much archaeological evidence has been found in the area, and the fact that the application site is located within the shadow of the Cathedral and its associated buildings, archaeological evidence would have been likely within this prominent, core location of the town, in the heart of the Conservation Area. It is deeply concerning that works at this site commenced with no regard to the planning process through which the protection of historic environment assets is achieved. Both Agent and Applicant were warned of the dangers of having commenced work on the site without gaining planning consent and advised to cease work until the matter had been suitably resolved. The Agent confirmed to County Archaeology that no new ground had been excavated. If, however, new ground has been penetrated at this location, there is a strong possibility that archaeological evidence will have been damaged or destroyed. Formal comments are attached at **Appendix 3**.

6.5. TREE OFFICER: The construction of the building began before the arboricultural implication assessment details were sent for consultation with the Tree Officer. The retrospective works took place within the tree root protection area of the Council owned TPO Sycamore tree, situated on Three Cups Walk. The arboricultural report confirms that the recent excavation work has encroached within the tree root protection area by 2.2% and caused root severance of small, fibrous roots and not compromised the structural integrity of the tree, but would have a minor effect on the vigour of the tree. The Tree Report and Tree Officer recommend that the tree should be monitored annually over the next five years to ensure its future health and safety. Also raised were the issues of overshadowing, leaf litter and problems with roosting birds in the overhanging Sycamore tree over any outdoor seating. Formal comments are attached at **Appendix 4**.

6.6. ENVIRONMENTAL HEALTH: The issue of overhanging branches and roosting birds over any outdoor seating is not ideal from a customer or hygiene point of view. The food business operator will need to consider what controls to apply in relation to the risk of contamination of food stuffs and equipment, by bird droppings and to ensure that such controls are adequate to prevent any illness as a result of potentially contaminated bird droppings. This would mean that particular attention would need to be paid to the cleaning and disinfection of the area and equipment, and possibly having canopies/umbrellas over the tabled area to reduce/minimise contamination.

That said, it is for the food business operator to assess the risks and identify suitable controls.

7.0 **THE PLANNING POLICY CONTEXT**

7.1 East Cambridgeshire Core Strategy 2009

- EN2 Design
- EN5 Historic conservation
- EN6 Biodiversity and geology

7.2 National Planning Policy

- PPS1 Delivering Sustainable Development
- PPS5 Planning for the Historic Environment

8.0 **PLANNING COMMENTS**

8.1 The main issues to consider when determining this retrospective application relate to visual amenity and the impact of the proposal on the surrounding street scene, Conservation Area, nearby Council owned TPO Sycamore Tree and archaeology.

8.2 *Conservation Area*

No weight can be given to the previous applications to extend the building as both the 2001 and 2006 applications have expired, secondly and more importantly, relevant Policy has changed since 2006, including the introduction of the East Cambridgeshire Core Strategy, 2009, PPS5 – Planning for the Historic Environment and specific references to Three Cups Walk within both The Ely Master Plan and the Ely Conservation Appraisal - Supplementary Planning Document, 2009.

8.3 Both the Ely Master Plan and Ely Conservation Appraisal cite the importance of creating improved and active frontages along Three Cups Walk that would enhance the setting of the Cathedral and the commercial activity of the area.

8.4 The Conservation Officer recommended a number of amendments to make the scheme more acceptable, for example, simplifying the design, removing the domestic style porch, increasing the amount of glazing to make the building look more like a shop etc. Unfortunately, the applicant has resisted any change to the scheme as significant works had already been completed. Minor revisions could have greatly improved the overall appearance of the extension without compromising its function. Within the Conservation Area, such adjustments are often necessary to ensure that the character of the area is protected and it is regrettable that the Planning Authority has not been given the opportunity to respond to the proposals or offer professional advice prior to the works being undertaken. Whilst the scheme could have been improved to better reflect its sensitive setting, it is considered not to result in significant harm.

8.5 *TPO Tree*

The construction of the building began *before* the arboricultural implication assessment details were submitted. The retrospective works have encroached within the tree root protection area and caused root severance of small, fibrous roots. Whilst

the works have not compromised the structural integrity of the tree, they would have an impact on the vigour of the tree. The Tree Report and Tree Officer recommend that the tree should be monitored annually over the next five years to ensure its future health and safety.

8.6 The Tree Officer also raised the issue of overshadowing, leaf litter and problems with roosting birds over any outdoor seating. Environmental Health were consulted regarding these comments and concurred that the issue of overhanging branches and roosting birds over any outdoor seating is not ideal from a customer or hygiene point of view. Whilst this is not necessarily a material planning consideration, it does raise the subject of additional pressure on the vitality and well being of the protected tree as further pruning is likely to be required in order to overcome these concerns.

8.7 *Impact on Archaeology*

County Archaeology has expressed its deep regret that works have continued at this site without allowing the protection of historic assets to be considered through the planning process, particularly as archaeological evidence has been found in nearby developments. The applicant/agent has assured County Archaeology that no new foundations have been excavated. If new ground has been penetrated there is a strong possibility that archaeological evidence will have been damaged or destroyed. The total floor area of the retrospective building is marginally bigger than the original building by approximately 3 square metres, therefore implying that new foundations needed to be dug in order to accommodate the slightly larger structure. Notwithstanding the extent of the new foundations, the lack of planning history for the demolished extension implies that work has previously been undertaken without consultation with Archaeology. This issue remains largely unresolved and cannot be dealt with in the normal manner due to the completion of works on site.

8.8 *Summary*

Works have progressed on this site prior to the determination of the planning application, despite requests from the Planning Authority to cease work until due consideration had been given to the proposals. Given the site's inclusion within the Conservation Area and the presence of a tree protected by TPO it should have been developed sensitively and in consultation with professional officers. It is unfortunate that the applicant has continued to work on site, preventing the opportunity for advice and guidance. Notwithstanding the manner in which the site has been developed, it is considered on balance, that there is insufficient harm on the character of the area to warrant refusal of the application. As such, the application is recommended for approval, subject to conditions.

9 RECOMMENDATION: APPROVE

1 - Details of the proposed colour finish shall be submitted to and approved in writing by the Local Planning Authority within 28 days of the decision being issued. All works shall be carried out in accordance with the approved details.

Reason: To safeguard the character and appearance of the Conservation Area, in accordance with Policies EN2 and EN5 of the East Cambridgeshire Core Strategy 2009.

2 – Tree protection measures outlined in the arboricultural report submitted with this application, including the monitoring of the TPO Sycamore Tree annually over the next five years, shall be implemented.

Reason: To ensure that the TPO Sycamore Tree is adequately protected and to safeguard the character and appearance of the area, in accordance with Policies EN1 and EN2 of the East Cambridgeshire Core Strategy 2009.

APPENDICES

- Appendix 1 – Design and Access Statement
- Appendix 2 – Comments from the Conservation Officer
- Appendix 3 – Comments from County Archaeology
- Appendix 4 – Comments from the Tree Officer

<u>Background Documents</u>	<u>Location(s)</u>	<u>Contact Officer(s)</u>
Application Files: 11/00023/FUL 11/00024/CAC 06/00545/FUL	Yvette Mooney Room No. 011 The Grange Ely	Yvette Mooney Planning Officer 01353 665555 yvette.mooney@eastcamb.s.gov.uk
East Cambridgeshire Core Strategy, 2009 Ely Conservation Appraisal - Supplementary Planning Document, 2009 Ely Master Plan PPS1 and PPS5		