MAIN CASE

Reference No:	16/00158/FUL		
Proposal:	Refurbishment and partial demolition of existing building to provide six residential townhouses and one residential flat over retained commercial unit.		
Site Address:	10 Forehill, Ely, Cambridgeshire CB7 4AF		
Applicant:	Baker Street Properties Ltd		
Case Officer:	Andrew Phillips, Senior Planning Officer		
Parish:	Ely		
Ward:	Ely East Ward Councillor/s:	Councillor Richard Hobbs Councillor Lis Every	
Date Received:	15 February 2016	Expiry Date: 13 June 2016 [R6]	

1.0 <u>RECOMMENDATION</u>

- 1.1 Members are requested to approve the application subject to the recommended conditions below, which can be read in full on attached Appendix 1.
 - 1 Approved Plans
 - 2 Time Limit
 - 3 Potential Contaminated Land
 - 4 Unexpected Contamination
 - 5 External Materials
 - 6 Material/Construction Details
 - 7 Gates Restriction
 - 8 Pedestrian Visibility Splays
 - 9 Construction Hours
 - 10 Construction Environmental Management Plan
 - 11 Shop Front
 - 12 Noise Insulation
 - 13 Biodiversity
 - 14 Surface Water
 - 15 Sustainable Construction

Members should be aware that the determination of this application will affect the determination of the application at the rear of 8 Forehill (16/00412/FUL), which is a later item on this Committee Agenda.

2.0 <u>SUMMARY OF APPLICATION</u>

- 2.1 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 <u>http://pa.eastcambs.gov.uk/online-applications/.</u> <u>Alternatively a paper copy is available to view at the East Cambridgeshire</u> <u>District Council offices, in the application file.</u>
- 2.2 The proposal involves the partial demolition of the existing retail unit on site and the creation of 7 residential units (six large 3 bedroom townhouses and a two bed flat). This provides an approximate gross density of 71 dwellings per hectare. The proposal involves ground works in order to accommodate car parking, with the most significant ground works involved to provide underground car parking for the residential dwellings. It should be noted that some of the parking spaces being provided are not for the proposed residential units and can be sold/rented to other existing or future properties in Ely.
- 2.3 The developer provided additional information on the 11 April 2016 to support the loss of retail floor space and the impact upon 8 Forehill. These amendments also covered providing greater clarification over car parking, boundary walls and access security.
- 2.4 The proposal has been advertised as a departure due to the loss of part of a large retail unit within the city centre (Policy COM2).
- 2.5 The application was called in to Planning Committee by Cllr Sue Austen in order to allow for debate and transparency for the general public.

3.0 PLANNING HISTORY

3.1 (adjacent to the site, rear of 8 Forehill) 16/00412/FUL – Demolition of an existing cafe entrance and associated redundant outbuilding and construction of a new enlarged cafe and three 1 bedroom flats and associated bin and cycle storage. This application is still being considered, with a determination date of the 27 May 2016 (an Extension of Time request has been requested).

4.0 THE SITE AND ITS ENVIRONMENT

4.1 The site is located on Forehill and is currently an empty retail unit, though the proposed access route to the public highway is through the public car park and onto Broad Street. Where the entrance to the site meets with the public car park, there is an ash tree with a Tree Preservation Order (TPO) that is located to the southwest of the existing entrance into the private parking area at the rear of 10 Forehill. The site is adjacent to the public footpath of Three Cups Walk that defines the southern boundary.

- 4.2 To the west of the site is the Cathedral, a Grade I Listed Building, with the lantern being clearly visible. The site is also located within the Ely Conservation Area. The site may, like neighbouring properties, have developed from a 'burgage plot' with a mix of residential and commercial elements on the site. The front of the building has a significantly more traditional appearance (likely 1900s) compared to the rear of the building that was likely built in the 1950/60s.
- 4.3 The land slopes downwards to the south, though there is also a slope running down to the west (entrance to the site).

5.0 RESPONSES FROM CONSULTEES

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

<u>Ely City Council</u> – (8 March 2016) It supports this application.

(4 May 2016) No concerns regarding the amendments and supports this application.

<u>Local Highways Authority</u> – (16 February 2016) It has no objections in principal to this application.

The vehicle access to the proposed car park does not form part of an adopted highway, though does cross a Public Right of Way (Footpath 31) and for this reason it is recommended that the Rights of Way Team are consulted.

Recommends that where the proposed vehicle access crosses Footpath 31 it is constructed to Cambridgeshire County Council Standards and this should be done in consultation with East Cambs Tree Officer.

It requests conditions in order to remove permitted development rights relating to gates and control pedestrian visibility splays.

<u>Asset Information Definitive Map Officer</u> – (7 March 2016) The proposal will not directly affect the Public Footpath. They provide a list of Informatives that they request is added to any approved application.

<u>Natural England</u> – (19 February 2016) It has no comments to make on this application.

<u>Waste Strategy (ECDC)</u> – (16 February 2016) They provide information on the collection of waste, as well as details of payments to be made for the delivery of bins.

<u>Environmental Health</u> – (1 March 2016) Requests that standard contaminated land conditions, due to the end using being considered to be sensitive (residential).

(9 March 2016) Environmental Health Officer adds that the hours of construction should be limited and that a Construction Environmental Management Plan (CEMP) is needed.

(10 March 2016) In regards to the mechanical parking system it appears that there will be no external motors and has a hydraulic system with a low noise level. It will have minimal impact on surrounding residents amenity.

<u>Conservation Officer</u> – (3 March 2016) The Conservation Officer states that the scheme as submitted has addressed concerns raised at pre-application stage regarding the design and bulk of the proposed extension. It has been simplified at roof level fronting Three Cups Walk as well as being pulled back from the boundary with the public footpath.

The loss of the flat roof, large imposing extension to the rear of the building will improve the visual appearance of the conservation area. The introduction of a contemporary take on the Georgian architectural style is a welcomed change and adds visual interest to an otherwise bland 'back' of Forehill. The proposal does not try to replicate the architectural style of the surrounding properties, but is a high quality architectural contemporary addition to the city centre.

The positioning of the building on the site will result in the extension being viewed in the same sight lines as the Cathedral when approaching from the Broad Street car park. However, the building does not obstruct or detract from the views towards the cathedral. The relationship with the listed building to Forehill will not be affected by the proposal.

It is disappointing to see that greater improvements are not proposed to the shop front, which is currently in a poor state and does little to enhance the overall appearance of Forehill. This street has a high proportion of high quality traditional timber ship fronts.

The use of high quality materials and detailing will be key to making this scheme successful and therefore should be conditioned.

(28 April 2016) Details to the front elevation should be heavily conditioned to ensure sufficient quality of materials and finished design.

(18 May 2016) The revised shop front design is acceptable from a conservation viewpoint and it will improve the visual appearance of the building in the streetscene. The details of pilasters, corbels etc need to be conditioned.

Historic England – No comments received.

<u>Tree Officer</u> – (29 March 2016) The Tree Officer has concerns that this development will have a negative impact upon an Ash tree that has a Tree Preservation Order (TPO) on it.

The main access to the development is an opening that crosses a public footpath from the adjacent car park. The Ash tree stands adjacent to this point and is likely to have a root plate below the pavement and driveway in situ. An increase in traffic could damage the tree roots due to the current engineering of the crossover.

The tree would also likely require pruning if tall vehicles are required to access the site.

Requires a professional assessment of the current access, to evaluate if this is sufficient to ensure there is no negative impact to the Ash tree from the concerns raised.

(21 April 2016) Considers the Ash tree of high landscape value and therefore would expect the assessment of the protection of this tree to be of the highest standard.

This assessment should consider all aspects of storage and transportation of materials and equipment to and from the site. All but minor pruning works would be considered in relation to allowing access to the site and operations would ideally be monitored by an arboriculturalist as and when required.

As this tree is subject to a Tree Preservation Order any damage to the tree due to negligence may give cause to prosecution. On this basis it is advised that the required information is supplied at the earliest opportunity as it is expected that the implications of any implementation of development could be significant.

<u>City of Ely Perspective</u> – (7 March 2016) In general supports the proposal and would like to see improvement to the ground floor façade of the shop front.

<u>Cambridgeshire Fire and Rescue Service</u> – (23 March 2016) It states that access and facilities for the Fire Service should be provided in accordance with the Building Regulations Approved Document B5, Section 16.

<u>The Anglia Revenues Partnership</u> – (6 April 2016) 8 Forehill is liable for business rates only.

<u>Business Development Manager</u> – (21 April 2016) While the proposal is a departure from the Local Plan the current gross floor area is likely too big to be commercially viable for an independent retailer and too small to be of interest to many of the larger multiples. The size of the property is likely of interest from food/drink establishments and it is understood that the building has a restrictive user covenant for the sale of alcohol which limits this market considerably.

A smaller retail area and more attractive shop frontage may therefore improve marketability given the current level of interest from, in particular, independent retailers.

Cambridgeshire Archaeology - No Comments Received

5.2 Neighbours – 36 neighbouring properties were notified and the responses received are summarised below. The latest site notice was put up on the 28 April 2016 and an advert was put in the Cambridge Evening News. A full copy of the responses are available on the Council's website.

<u>14 Ship Lane, Ely</u> – (Original Submission) They support this proposal as it will allow for the growth of residential development within walking distance of the city centre. This will improve the viability of businesses.

<u>Flat 1, 16 Forehill</u> – Objects to the proposal as it will severely affect their rights of way and access to the rear of their property.

The demolition of the boundary wall would severely affect their privacy.

Raises concerns over the re-sale value of their property.

<u>Flat 2, 16 Forehill</u> – (Original Submission) Objects to the proposal on the grounds that the new development will cause overbearing, noise pollution (during and post construction) and the loss of old wall in front of their flat.

<u>Flat 5, 12-14 Forehill</u> – (Original Submission) Previous residents of the flats 12-14 Forehill have been able to rent parking spaced from land in question, this proposal will remove this ability. With changes to public car parks, the residents will not have the ability to park. In order to solve this requests that either the Council provides resident permits or developer provides spaces.

Apart from car parking has no objections to the proposal that will reinvigorate the building and uplift the area.

<u>3 at 3, Three Cups Walk</u> – (Original Submission) Objects to the proposal.

Any negative impact the building work has will be detrimental to the Three Cups Walk area businesses and residents, which is a major walkway through the city. The proposal will lead to overdevelopment of the site, which could be visually detrimental and cause loss of light.

The provision of one parking space per unit is not considered to be satisfactory.

Raises concern over construction work both in relation to business/trade and the health and safety of pedestrians. They add that during their busy months 95% of their customers sit outside.

<u>15 Mulberry Lane, Ely</u> – The occupant states that the suggested area for parking should be for current users and not for possible parking spaces at the Market Square.

The design of the dwellings are small and give little or no living spaces to proposed occupants.

<u>16 Morton Close, Ely</u> – As a landlord of one of the adjacent flats is concerned about rear access and fire escape routes.

<u>65A Arundell, Ely</u> – (7 March 2016) Is the owner of 8 Forehill. No objection to the principle of the redevelopment, though is concerned and disappointed that no consideration has been given to the very real prospect of development on land to the rear of 8 Forehill. The plans for the development at 8 Forehill will be submitted shortly and will inevitably impact on the scheme as proposed and therefore will need to be fully taken into account.

(29 March 2016) The landowner of 8 Forehill states that it is critical that this application is considered in a wider perspective.

The landowner states that the following should be considered:

- There is only a 2m pathway between the site and the neighbouring garden land.
- Massing of the building is significantly increased.
- The proposed replacement building does not benefit the conservation area.
- Proposal does not accord with the Local Plan.
- Greater clarification over car parking required.
- Access is across a public footpath and is narrower than portrayed.
- No reference has been made to the storage of domestic or retail bins.
- Access through the passageway appears to create a perceived public walkway. This will create security issues.
- The loss of a large retail unit within the city centre.
- Lack of detail in regards to site levels.

(11 and 12 April 2016) The landowner provides additional information relating to the use of the land at the rear of 8 Forehill. This includes that from the 9 April 2016 Flat 1, 3 Cups Walk has the right to use the rear of 8 Forehill as garden space.

(14 April 2016) Tenancy agreement between owner of 8 Forehill and occupant of Flat 1 Three Cups Walk submitted.

(27 April 2016) The landowner provides counter points to the information the supporting information the developer has provided from Carter Jonas and Howes Percival; as well as the supporting information from the agent.

In addition they state that the revised plans do not over come their concerns regarding site levels, security, bin storage (waste disposal), tree considerations and parking arrangements.

6.0 <u>The Planning Policy Context</u>

- 6.1 East Cambridgeshire Local Plan 2015
 - GROWTH 1 Levels of housing, employment and retail growth GROWTH 2 Locational strategy **GROWTH 3** Infrastructure requirements Delivery of growth GROWTH 4 **GROWTH 5** Presumption in favour of sustainable development Housing mix HOU 1 HOU 2 Housing density Landscape and settlement character ENV 1 ENV 2 Design Energy efficiency and renewable energy in construction ENV 4 ENV 7 Biodiversity and geology ENV 8 Flood risk ENV 9 Pollution

Conservation Areas
Listed Buildings
Retail uses in town centres
Transport impact
Parking provision

6.2 Supplementary Planning Documents

Developer Contributions Design Guide Ely Conservation Area

- 6.3 National Planning Policy Framework 2012
- 7.0 PLANNING COMMENTS
- 7.1 Principle of Development
- 7.2 The Local Planning Authority is not currently able to demonstrate that it has an adequate five year supply of land for housing. Therefore any policy controlling the supply of housing must be considered out of date and housing applications assessed in terms of the presumption in favour of sustainable development set out in the National Planning Policy Framework. This means that development proposals should be approved unless any adverse effects of the development significantly and demonstrably outweigh the benefits.
- 7.3 If the Council had a five year land supply the creation of residential properties within the centre of Ely would be acceptable in principle as it complies with Policy GROWTH 2. In addition with the creation of dwellings in such a central location it is possible to access a range of services/facilities, which includes a range of shops, train station and bus network.
- 7.4 The loss of a large retail unit goes against Policy COM2 that seeks to maintain retail units that benefit from floorspace in excess of 200m² in the city centre; this weighs against the proposal. The developer has put forward an argument to say that only half of the shop is within the town centre (defined by Policy COM2), and that the residential element of the proposal is mostly outside of the town centre. While this argument is factually true no weight is given to this, as the frontage of the retail unit is firmly within the town centre defined by Policy COM2 and therefore the whole of the unit needs to be taken into consideration.
- 7.5 The comments of the Business Development Manager are noted and accepted that with the legal covenants on this site it is unlikely that a user would be found who would be willing to pay the market rate for this size store. The current gross floor area is likely too big to be commercially viable for an independent retailer and too small to be of interest to many of the larger multiples. The size of the property is likely of interest from food/drink establishments and due to the restrictive user covenant for the sale of alcohol this limits this market considerably. The deeds of 10 Forehill have been provided that show that no building on the site can be used to sell alcohol, which limits who would be willing to take on this store. A smaller

retail area and more attractive shop front may improve the marketability given the current level of interest from independent retailers.

- 7.6 In this specific case the loss of this large retail unit is not considered to be detrimentally harmful to the vitality of Ely City Centre as a small retail unit will be retained, but does provide some weight against the granting of planning permission. The developer is offering to enhance the front of the store where the small retail unit will be retained, which is to the merit of the application and this is discussed in detail further within the report.
- 7.7 Residential Amenity
- 7.8 The impact upon the rear of 8 Forehill is a significant consideration within the determination of this application. 8 Forehill would likely have been historically a Burgage Plot, which were found in medieval market towns and characterised by terrace properties with a narrow frontage and long rear garden spaces. These properties would have been a mix between residential and commercial elements.
- 7.9 Officer's support fundamentally rests on whether the rear of 8 Forehill, since 1948, has become residential or commercial land. If the land is considered to be residential, then the creation of balcony and bedroom windows would cause detrimental loss of privacy. It is noted that there are windows that already face this direction, though deeds of property for 10 Forehill have been provided that state that these must permanently be retained as obscure glass. If the application was approved this legal agreement would still cover the site, though this then becomes a private legal matter between the landowners.
- 7.10 The proposed development at 8 Forehill (16/00412/FUL) in turn would cause detrimental overbearing if both developments were built.
- 7.11 Council evidence shows that 8 Forehill is only liable to pay business rates and therefore provides strong indication that this property no longer has a residential element to it. In addition there are no records of Council Tax having been paid recently. Within an application to remove trees from 8 Forehill (15/01028/TRE) the company Hayden's described the land in May 2015 as "derelict and unused except for evident of tipping of rubbish and building waste"; little weight is given to this statement as a garden could be kept to a high standard or not and Hayden's were there to consider protected trees not the use of the land.
- 7.12 The landowner of 8 Forehill has provided details that the land at the rear of 8 Forehill has been rented out to Flat 1 Three Cups Walk to be used as garden space only. With this agreement dated 9 April 2016, little weight can be given to this piece of evidence as a change of use to residential must be a continuous period of at least 4 years.
- 7.13 The developer has sought advice from Howes Percival and the landowner of 8 Forehill has provided counter arguments. It is considered that these two arguments hold equal weight.
- 7.14 With a lack of planning history on the rear of 8 Forehill it is difficult to determine the exact use of this space. It is the view of officers, that with Council Tax/Business

Rates being the best impartial evidence, that on the balance of probability the rear of 8 Forehill has become commercial space, as no Council Tax has been paid recently.

- 7.15 This weighs in favour of granting approval of the development at 10 Forehill, which in turn means that the development at the rear of 8 Forehill would need to be refused on the grounds of detrimental overbearing to this proposal.
- 7.16 With the two sites not forming a site allocation under the Local Plan adopted April 2015, and that 8 Forehill is already landlocked, it is considered to be unreasonable to refuse both applications under Policy ENV2 that requires development to avoid uncoordinated piecemeal development.
- 7.17 There are flats located at the rear of the existing private car park behind the existing brick wall, which will be retained. With the proposed building being of a similar final height (additional height created by digging down) and with windows already facing over the shared private car park; the proposal is not considered to cause any additional harm to loss of light, undue overbearing or loss of privacy. The creation of the front deck area it is at the same level as the current walkway to the existing flats, there is minor concern that future residents might actively use this as garden space that could cause noise pollution. However, this is not considered to be detrimental and overall this element is considered to be relatively neutral.
- 7.18 With additional residential properties being placed adjacent and above a retail unit it is considered reasonable to add a condition to ensure that suitable noise insulation is installed to prevent the retail unit from ever becoming a nuisance to future residents.
- 7.19 The 6 townhouses are considered to be internally spacious for three double bedroom properties; as they benefit from two living room spaces, store rooms and large kitchen/dining room spaces. While the internal space is considered to be very good, the external space is limited to a narrow rear balcony and a front (nonprivate) decking area. While the external space is below standard, the proposed dwellings have easy access to the public open spaces that the City of Ely provides. In addition given their central location it would not be expected for these properties to have large private amenity areas. The lack of external space is not considered to be a reason for refusal, though weighs slightly against the proposal.
- 7.20 With the site being a brownfield development it is considered fully reasonable to add conditions regarding potential contamination and to ensure if any is found that it is dealt with appropriately.
- 7.21 Visual Amenity and Historic Environment
- 7.22 The majority of properties along this side of Forehill follow a linear pattern along the public highway with only two properties (the application site and Royal Standard Public House) breaking this pattern. The proposal seeks to replace the existing building that is of no architectural merit with a contemporary take on Georgian architecture. While the maximum height is almost identical to the existing building the proposal involves digging down by up to 1.6m at the front of the building to create the under croft parking with a further 2m of development located

underground to create four underground parking spaces (part of automated system). The front of the site (facing private carpark) is approximately 10m above ground level while the rear of the site is approximately 7.7m above ground level.

- 7.23 With the form of the building following the principle already set on this plot and ensuring that space remains between the built form and the wall that runs along Three Cups Walk, the form is considered to be acceptable.
- 7.24 The proposed design is considered to be of a high quality and while it follows many Georgian principles, it provides suitable contemporary elements to ensure the scheme does not look like a poor version of Georgian architecture. The details of the proposed building will need to be tightly controlled to ensure the end finish is of the highest quality; this can be dealt with by conditions.
- 7.25 If properly restored and maintained the front building could be one of the most attractive buildings along Forehill. The developer has offered to upgrade/return the front of the retail unit to wooden fenestration; this will have a significant improvement to the visual appearance of both the shop and the character of Forehill. This adds weight to the approval of the application and overcomes some of the concern over the loss of retail space.
- 7.26 The proposal will not block any views to the Cathedral, which will remain the main focal point when travelling along Three Cups Walk, and therefore is considered to cause no harm to this Grade I Listed Building.
- 7.27 Highways and Parking
- 7.28 The proposed development has a vehicle connection onto Broad Street and pedestrian access onto Three Cups Walk and Forehill. The Local Highway's comment of no objection is noted and accepted. A condition will be added to remove the permitted development rights relating to gates to ensure that pedestrian safety is maintained.
- 7.29 The crossing over of the public footpath (Three Cups Walk) is an existing situation with the current private car park been in existence for over ten years. The proposal is not considered to create any detrimental harm to the users of the public footpath. While the crossover is in need for an upgrade to both accommodate the TPO and vehicles, it would be unreasonable to require this development to fix a current problem when the amount of vehicles is unlikely to significantly increase. It is noted that the Asset Information Definitive Map Officer (Public Rights of Way) has not raised any objects to the approval.
- 7.30 The proposal involves 7 car parking spaces in an underground conveyor belt system, which provides one parking space for each residential unit. The remaining car parking spaces would be free to use to any existing resident who rented them or for future occupants. With the development being located within the centre of Ely, the proposal complies with Policy COM 8 (one parking space on average per dwelling).
- 7.31 With the amount of storage space provided within the townhouses it is considered that cycle storage could be accommodated within these properties.

- 7.32 Ecology
- 7.33 The ecologist report stated that the roof structure is unsuitable for bats and concludes that there is no bat or breeding bird interest on the site. A condition would be added to ensure the developer creates ecological enhancement on site.
- 7.34 Flood Risk and Drainage
- 7.35 While the proposal is a replacement building and will not fundamentally change the amount of permeable space on site, the creation of an underground car park could change how water flows. A condition will be added to ensure that surface water is appropriately controlled.
- 7.36 Renewable/Sustainable Construction
- 7.37 With the size of the proposal it is expected that the developer will provide a higher than standard building specification in line with Policy ENV4. The developer is stating that it will primarily deal with sustainability through the use of robust external fabric that will exceed the standard building regulations. In addition heat recovery systems will be explored and rainwater harvesting could be placed in the void space created behind the lower level car parking. The use of rainwater harvesting would also help control water drainage on the site. While these measures are considered to be acceptable in theory, a condition will be required in order to agree specific details of these measures.
- 7.38 Refuse Collection
- 7.39 Within the city centre residential refuse/recycling is dealt with sacks and not with formal bin provision. The proposed residential units have no identified space for the storage of refuse/recycling and it would likely have to be stored either within the properties or likely the front deck level. With generous internal floorspace (including several storage rooms) it is likely space for several internal domestic bins could be provided. An alternative space to store refuse both for the residential units and retail unit might be the private footpath that leads from Three Cups Walk to Forehill, which measures 2m in width that would allow bins to be stored and space still to walk past them. However, bin storage in this location might create issues with other legislation if these routes must remain clear but it is noted that bins are already stored along this footpath.
- 7.40 The retail unit by virtue of its proposed size is unlikely to create significant amounts of refuse/recyclable material. However, the end user will need to ensure a suitable space is found.
- 7.41 While this is not uncommon for a city centre location it does provide a limited amount of weight against the approval of the application.
- 7.42 Construction Measures
- 7.43 While normally the construction of a building is a private matter, with this site it will be significantly difficult to construct. This is due to both a weight limit over the

Council owned car park, a footpath unlikely to be built to withstand heavy loads and an Ash Tree (TPO) directly in front of the site entrance with roots under the access. Construction traffic is likely to both be heavy and tall and this will likely cause damage to the TPO, which is a criminal offence unless specific permission is granted for such works.

- 7.44 During the discussions over the application the case officer invited the developer to submit detailed arboricultural information regarding this TPO and covering potential upgrades to the footpath/vehicle crossover. The developer has sought that these discussions are held at a later stage. With it being possible that the developer will be unable to get its construction vehicles past the tree it may have to create a builders compound off site and move constructed related goods/machinery in lighter/smaller loads. The details of this can be dealt with by way of a Construction Environmental Management Plan (CEMP). The CEMP will also be able to deal with the usual disturbances/nuisances (e.g. noise and dust) that a large construction project can cause, as well as ensuring that the footpath remains free of obstruction and that pedestrians are duly protected. Three Cups Walk also needs to be kept free of obstruction to prevent any significant loss of trade to the businesses that rely on this footpath. A separate condition will be used to control when construction work and deliveries can take place on site.
- 7.45 Other Material Matters
- 7.46 Loss of value of property is not a material planning consideration and no weight has been given to this argument.
- 7.47 Planning Balance
- 7.48 That on balance the proposed development is of a high quality architectural design that will overall enhance this area of Ely and provide much needed housing in a very sustainable location. With the proposal leading to the loss of retail space within the city centre discussion and careful consideration has been had with the Council's Business Development Manager to ensure the loss of space is fully justified and will not lead to detrimental harm to Ely as a retail centre. There are other elements of the proposal that weigh against the development, but none of these individually or combined would justify refusing this application.
- 7.49 Members are reminded that the determination of this application will have significant impacts on the determination of the development at the rear of 8 Forehill (16/00412/FUL).
- 8.0 <u>APPENDICES</u>
- 8.1 Appendix 1 Suggested Conditions

Background Documents	Location	Contact Officer(s)
16/00158/FUL	Andrew Phillips	Andrew Phillips
16/00412/FUL	Room No. 011	Senior Planning

The Grange

Officer

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

APPENDIX 1 - 16/00158/FUL Conditions

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

Plan Reference	Version No	Date Received
15-289 GA 001	A	15th February 2016
15-289 GA 002	С	11th April 2016
15-289 GA 016	В	13 th May 2016
15-289 GA 010	С	9th February 2016
15-289 GA 015	В	9th February 2016
12104 1		15th February 2016
12104 2		9th February 2016
12104 3	R1	9th February 2016
12104 4	R1	9th February 2016

- 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 No development shall take place until an investigation and risk assessment of the nature and extent of any contamination on the site, whether or not it originates on the site, has been undertaken. The investigation and risk assessment must be undertaken by competent persons, and a written report of the findings must be submitted to and approved in writing by the Local Planning Authority. The report of the findings must include:
- (i) A survey of the extent, scale and nature of contamination;
- (ii) An assessment of the potential risks to: human health property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes; adjoining land; groundwaters and surface waters;ecological systems; archaeological sites and ancient monuments;
- (iii) An appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. Any remediation works proposed shall be carried out in accordance with the approved details and timeframe as agreed in writing with the Local Planning Authority.
- 3 Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with policy ENV9 of the East Cambridgeshire Local Plan 2015. The

condition is pre-commencement as it would be unreasonable to require applicants to undertake this work prior to consent being granted.

- In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing to the Local Planning Authority within 24 hours. An investigation and risk assessment must be undertaken and approved in writing by the Local Planning Authority. Where remediation is necessary, a remediation scheme must be submitted to and approved in writing by the Local Planning Authority. The necessary remediation works shall be undertaken, and following completion of measures identified in the approved remediation scheme a verification report must be prepared, and approved in writing by the Local Planning Authority.
- 4 Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with policy ENV9 of the East Cambridgeshire Local Plan 2015.
- 5 No above ground construction shall take place on site until details of the external materials to be used on the development have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 5 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.
- 6 No above ground construction shall take place on site until details of the external fenestration, rainwater goods and balconies to be used in the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. All works shall be carried out in accordance with the approved details.
- 6 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.
- 7 Notwithstanding the provision of Class A of Schedule 2, Part 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015, (or any order revoking, amending or re-enacting that order) no gates shall be erected across the approved access.
- 7 Reason: In the interests of highway safety, in accordance with policies COM7 and COM8 of the East Cambridgeshire Local Plan 2015.
- 8 Prior to the commencement of the use hereby permitted visibility splays of two 2.0m x 2.0m shall be provided each side of the vehicular access measured from and along the back of the footway. Such splays shall thereafter be maintained free from obstruction exceeding 0.6m above the level of the footway

- 8 Reason: In the interests of highway safety, in accordance with policies COM7 and COM8 of the East Cambridgeshire Local Plan 2015.
- 9 Construction times and deliveries, shall be limited to the following hours 08:00 18:00 each day Monday-Friday, 08:00 13:00 Saturdays and none on Sundays or Bank Holidays.
- 9 Reason: To safeguard the residential amenity of neighbouring occupiers, in accordance with policy ENV2 of the East Cambridgeshire Local Plan 2015.
- 10 Prior to any demolition or work commencing on the site a Construction Environmental Management Plan (CEMP) shall be submitted to and agreed in writing with the Local Planning Authority regarding mitigation measures for noise, dust, lighting and how the construction work shall take place. These shall include, but not be limited to, other aspects such as access points for deliveries and site vehicles, building compounds, protection of the Ash that benefits from a Tree Preservation Order and proposed phasing/timescales of development etc. The CEMP shall be adhered to at all times during all phases, unless otherwise agreed in writing with the Local Planning Authority.
- 10 Reason: To safeguard the residential amenity of neighbouring occupiers and to protect the adjacent Tree Preservation Order, in accordance with policies ENV1 and ENV2 of the East Cambridgeshire Local Plan 2015. The condition is pre-commencement as it would be unreasonable to require applicants to undertake this work prior to consent being granted
- 11 No above ground construction shall take place on site until details of the external shop front: including timber fenestration, pilasters, corbels and other architectural detailing (as shown in drawing number 15-289 GA016 Rev B) hereby approved have been submitted to and approved in writing by the Local Planning Authority at a scale of 1:20. All works shall be carried out in accordance with the approved details prior to first occupation of any of the approved residential units.
- 11 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.
- 12 No above ground construction work shall commence until a scheme of sound insulation has been submitted for Townhouse 6 and the first floor flat has been submitted to and agreed in writing with the Local Planning Authority. Development shall commence in accordance with the agreed details.
- 12 Reason: To safeguard the residential amenity of neighbouring and future occupiers, in accordance with policy ENV2 of the East Cambridgeshire Local Plan 2015.
- 13 Prior to occupation a scheme of biodiversity improvements shall be submitted to and agreed in writing with the Local Planning Authority. The biodiversity improvements hall be installed prior to the first occupation of the hereby approved development and thereafter maintained in perpetuity.
- 13 Reason: To protect and enhance species in accordance with policies ENV2 and ENV7 of the East Cambridgeshire Local Plan 2015.

- 14 No development, aside from demolition, shall take place until a scheme detailing how surface water will be drained within the site; has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented prior to first occupation.
- 14 Reason: To prevent the increased risk of flooding and to improve and protect water quality, in accordance with policies ENV7 and EMV8 of the adopted Local Plan. This is prior to commencement as these details are needed before construction work begins.
- 15 Prior to the commencement of development, an energy and sustainability strategy for the development, including details of any on site renewable energy technology and energy efficiency measures, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved strategy.
- 15 Reason: To ensure that the proposal meets with the requirements of sustainability as stated in Policy ENV 4 of the adopted Local Plan. This condition is pre-commencement as some of the measures may be below ground level.