
MAIN CASE

Reference No: 16/00412/FUL

Proposal: Demolition of an existing cafe entrance and associated redundant outbuilding and construction of a new enlarged cafe and 3no. 1 bedroom flats and associated bin and cycle storage.

Site Address: Land To The Rear, 8 Forehill, Ely, Cambridgeshire CB7 4AF

Applicant: Mr Griffin

Case Officer: Andrew Phillips, Senior Planning Officer

Parish: Ely

Ward: Ely East

Ward Councillor/s: Councillor Richard Hobbs
Councillor Lis Every

Date Received: 1 April 2016 **Expiry Date:** 27 May 2016

[R7]

1.0 **RECOMMENDATION**

1.1 Members are requested to give the Planning Manager delegated power to refuse the application on the following grounds, subject that no new material planning considerations are raised:

1. The proposed development by virtue of its height, massing and location in relation to the adjacent development of 10 Forehill (16/00158/FUL) will cause a detrimental level of overbearing and loss of sunlight in the evening/afternoon that it is not possible to mitigate against to the future residents of the dwellings approved under 16/00158/FUL. The significant level of harm outweighs the benefits of providing three additional dwellings and thus fails in relation to paragraph 14 of the National Planning Policy Framework and Policy ENV2 of the East Cambridgeshire Local Plan April 2015
2. The proposed development by virtue of its scale, form and design is considered to significantly harm Ely Conservation Area as it does not reflect the character or quality of the surrounding historic area, nor does it provide a high quality contemporary addition to provide a clear juxtaposition. It is for this reason that the proposal is considered to fail to comply with policies ENV1, ENV2 and ENV11 of the East Cambridgeshire Local Plan April 2015.

The proposal is also not considered to comply with Chapter 7 and 12 of the National Planning Policy Framework.

2.0 SUMMARY OF APPLICATION

- 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 <http://pa.eastcambs.gov.uk/online-applications/>. **Alternatively a paper copy is available to view at the East Cambridgeshire District Council offices, in the application file.**
- 2.2 The proposal is for three one bedroom flats, part demolition and rebuilding of an existing cafe and provision of cycle/bin stores. The proposal has an approximate gross density of 82 dwellings per hectare.
- 2.3 The application is brought to Planning Committee by the Planning Manager because it has a direct impact on the neighbouring application at 10 Forehill (16/00158/FUL), which was called in to Planning Committee by Cllr Sue Austen in order to allow for debate and transparency for the general public. These two developments need to be read together in order to ensure that both applications can be determined appropriately. With getting this application to June Planning Committee it has not been possible to seek any amendments and not all consultation (Press Notice) has finished.
- 2.4 The recommendation and elements of the report are based that Members will agree with officers' recommendation on planning application 16/00158/FUL.

3.0 PLANNING HISTORY

3.1

14/00939/TRE	T1 Sycamore and T2 Holly - Prune back to give unobstructed view to CCTV cameras and reshape to leave balanced crown shape.		22.09.2014
15/01028/TRE	T1 Sycamore - Fell. T2 Sycamore - Fell. T3 Holly - Fell. T4 Ash - Fell. G1 Elder - Prune to form screening.		18.09.2015
88/01526/OUT	-SHOP AND BAR/RESTAURANT AND 2 FLATS	Refused	03.01.1989

89/00488/OUT	CONVERSION FIRST AND SECOND FLOOR TO RESIDENTIAL AND EXTENSION TO CREATE SIX NEW FLATS		09.04.1992
11/00023/FUL	Demolition of existing timber building and replace with new shop extension - Retrospective	Refused	06.05.2011
11/00024/CAC	Demolition of existing timber building and replace with new shop extension - Retrospective	Refused	06.05.2011
11/01018/FUL	Demolition of existing timber building and replace with new shop extension - Retrospective	Refused	02.02.2012
12/00207/FUL	New shop extension - Retrospective- also additional use Class of A3	Approved	07.06.2012

4.0 THE SITE AND ITS ENVIRONMENT

- 4.1 The site is the land behind 4 – 8 Forehill, which has no direct access on to a road but does have pedestrian access onto Three Cups Walk that defines the South – Northern boundaries.
- 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.

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.

City of Ely Council – It has major reservations regarding this application. This is due to the lack of parking, which has caused the Council to recommend refusal for this application. However, the Council would urge the applicant to seek specified parking, as stating parking would be in the public car park is not acceptable.

City of Ely Perspective – It is in favour of this proposed development, which is situated adjacent to a main pedestrian access to the city centre; with the proviso that high quality materials are used.

Local Highways Authority – It is recommended that with Footpath No.31 running along the edge of the site that Cambridgeshire County Councils Rights of Way team are consulted.

No parking provision is made for those residents wishing to keep cars. It is likely that this will lead to future residents seeking to park their vehicles on street in competition with the existing residents.

The proposal should have no significant impact on the public highway, should it gain the benefit of planning permission, subject to conditions that prevent structures overhanging or water draining onto the public highway.

Senior Definitive Map Officer - No Comments Received

Environmental Health (Commercial) – They request an informative to state that the layout, design and construction must comply and meet relevant food, health and safety legislation.

Environmental Health (Scientific) – Recommends that conditions are added to investigate and mitigate any potential contamination found on site.

Environmental Health (Technical Officer) – States that the current terrace area for the café has controlled hours of use.

It is noted that from the application form that the proposed hours of use are unknown and concern is raised regarding the proximity of the bedroom windows to the terrace area. They seek clarification as to the required times of use for the terrace area and any proposed mitigation to reduce the impact on the residential property.

Once further information is received would be happy to discuss conditions.

Cambridgeshire Archaeology – The site is located in an area of high archaeological potential and requests that prior to development that an archaeological investigation is agreed.

East Cambridgeshire Access Group – Provides guidance on how doors, ramps, toilets and outdoor seating should be installed/provided.

Crime Prevention Design Advisor – The risk of crime is low in this area and has no additional comments to make on the proposal.

Trees Officer – The Tree Officer states that the development potentially affects a large sycamore tree adjacent to the site. This tree is subject to a Tree Preservation Order. The Arboricultural Report submitted with this application does identify that the root protection area of this tree is outside the development footprint so is unlikely to restrict development.

Their primary concern is in regard to the access of materials and equipment during construction. It appears any access via the rear of the site will affect the sycamore

to the north or an ash tree (also protected) to the south. Therefore additional information is required to consider the impact of this concern.

Waste Strategy (ECDC) – Provides guidance on the collection of waste and payments for bin provision.

Conservation Officer – The Conservation Officer states that the application affects Ely Conservation area and is within close proximity to several listed buildings.

The traditional linear plots along Forehill, with the land falling away towards the river as you move from the hill top of the Cathedral, is in the most part still visible in the built form that is present on the ground.

The proposal is of a simple design that is of little architectural merit. The proposed fenestration adds no visual interest to the building and then entrance point appears to be an art deco style. Overall the building appears large and visually dominating and would neither preserve nor enhance the character of the local area.

The proposal would result in the reconfiguring of the ground levels across the site that would fundamentally alter the historic built form of the site.

The view from Three Cups Walk would see the awkward the roof line with the large flat roof projection in order to facilitate sufficient head room at first floor.

Whilst the desire to provide an active frontage to Three Cups Walk and to improve the existing café facilities, this could be done in a much more sympathetic manner that would improve the visual quality of the streetscene and result in a much high quality of development.

The proposal in its current form would result in overdevelopment of the site and would cause harm to the character and appearance of the conservation area by virtue of its poor quality design that does not reflect the character or quality of the surrounding historic character of the area. Consent should not be granted from a conservation viewpoint.

Ward Councillors - No Comments Received

Cambridgeshire Fire And Rescue Service - No Comments Received

CCC Growth & Development - No Comments Received

- 5.2 Neighbours – 9 neighbouring properties were notified and the responses received are summarised below. A site notice was put up on the 19 April 2016 and press notice was in Cambridge Evening News on the 21 April 2016. A full copy of the responses are available on the Council's website.

10 Forehill (Acting on behalf) – Compares this proposal to the neighbouring development at 10 Forehill (16/00158/FUL) stating that 8 Forehill development will provide less than half the number of dwellings.

If 10 Forehill is approved this application will cause detrimental harm to residential harm of these properties.

There is a lack of information regarding tree and surface water information in order to allow for a positive determination.

The proposal will lead to the loss of further trees and therefore harm biodiversity.

Considers the Design and Access Statement to be misleading and does not improve the active frontage of Forehill.

The proposal makes no provision for car parking and there is no justification for this, therefore, it does not comply with Policy COM 8. The public car park that the development relies on is not a 24 hour car park and for this reason is not suitable for residential parking.

They state that it is well established that the Council should consider relevant competing or neighbouring applications when consider the application. The Council must therefore consider the merits of approving the application in light of the neighbouring application.

6.0 The Planning Policy Context

6.1 East Cambridgeshire Local Plan 2015

GROWTH 1	Levels of housing, employment and retail growth
GROWTH 2	Locational strategy
GROWTH 3	Infrastructure requirements
GROWTH 4	Delivery of growth
GROWTH 5	Presumption in favour of sustainable development
HOU 1	Housing mix
HOU 2	Housing density
ENV 1	Landscape and settlement character
ENV 2	Design
ENV 4	Energy efficiency and renewable energy in construction
ENV 7	Biodiversity and geology
ENV 8	Flood risk
ENV 9	Pollution
ENV 11	Conservation Areas
ENV 12	Listed Buildings
COM 2	Retail uses in town centres
COM 7	Transport impact
COM 8	Parking provision

6.2 Supplementary Planning Documents

7.0 PLANNING COMMENTS

7.1 Principle of Development

7.1 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.

7.2 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 the creation of dwellings in such a central location would make it possible to access a range of services/facilities, which includes a range of shops, train station and bus network.

7.3 While the proposal will demolish an existing cafe it will replace this and enlarge its terrace area fronting Three Cups Walk.

7.4 The principle of the proposal is, therefore, considered to be acceptable; subject to all other material planning considerations.

7.5 Residential Amenity

7.6 Local Planning Authorities are required to consider any neighbouring property or development when coming to a determination; this is one of the reasons why applications only have three years to commence development to prevent one approval preventing future potential development.

7.7 If the application at 10 Forehill is approved (16/00158/FUL) this proposal will add 9.4m of wall (mainly brickwork) approximately 2 metres away from habitable rooms. This would cause a detrimental level of overbearing and significant loss of light in the afternoon/evening. With no reasonable way to mitigate from this significant level of harm the application is recommended for refusal, as it does not comply with Policy ENV2.

7.8 The concern of the Environmental Health Officer regarding the closeness of habitable rooms to the proposed enlarged terrace area is noted. If the application was to be approved conditions would need to be added to seek noise mitigation measures to the proposed properties and to condition the times the terrace could be used for (08:00 – 22:00 Sunday to Thursday, 08:00 – 23:30 Friday to Saturday).

- 7.9 With no external amenity space being provided for any of the flats, this weighs slightly against the proposal. However, by virtue of city centre location it has easy access to a variety of public spaces. The lack of external amenity space is not considered to be a reason for refusal, but does highlight the better design of the neighbouring development of 16/00158/FUL that provides external amenity space for most of its residential properties.
- 7.10 Visual Amenity and Historic Environment
- 7.11 The site is located within Ely Conservation Area and provides part of the visual setting of the Cathedral (Grade I Listed Building).
- 7.12 The proposal seeks to create a relatively modern (but not contemporary) style. However, the design is considered to be very poor as explained below; part of the reason might be by virtue of submitting the application quicker than expected so that it can be determined alongside 10 Forehill.
- 7.13 The views of the Conservation Officer are noted and accepted as explained below. The design is considered to be poor because the roof accommodates a long flat roof section in order to presumably accommodate head room, the proposed form is the rarity along Forehill (10 Forehill and The Standard Public House being the only examples of long projections rearwards) and the detailing does not positively add to the final design.
- 7.14 The proposed design will significantly detract from the historic centre of Ely and for this reason is considered to not comply with policies ENV1, ENV2 and ENV11. While the development is within the setting of the Cathedral it is not considered that the harm to the setting of the Cathedral warrants refusing the application on Policy ENV12 but adds further weight to refusing the application on policies ENV1,2 and 11.
- 7.15 Highways and Parking Provision
- 7.16 The proposal has no motorised vehicular access onto the public highway and for this reason will have no direct impact upon highway safety and the Local Highways Authority have raised no concerns.
- 7.17 Policy COM8 requires one parking space per dwelling but does allow under appropriate circumstances that parking standards can be relaxed to reflect accessibility of non-car modes of transport or to protect/enhance the conservation area.
- 7.18 The lack of car parking will likely mean that future residents would either have to park on the road, which would compete with the existing residents for the limited amount of on road parking spaces or would require moving their car on a regular basis from one public car park to another. While the future residents of these properties may not require a car (work in Ely or rely on public transport) this cannot be relied upon.
- 7.19 The development does seek to overcome this lack of parking by providing a significant amount of cycle storage at the lower ground floor level.

- 7.20 It is considered that on balance the lack of car parking spaces is not considered to be a reason for refusal in itself due to the city centre location but does provide moderate weight against granting planning permission.
- 7.21 Ecology
- 7.22 The Council's Tree Officer has considered the loss of trees on site and considers that the trees marked for removal are not worthy of retention. The impact of construction on trees is covered below.
- 7.23 If the application is approved a condition would be needed to provide biodiversity enhancements on site, such as bird and bat boxes.
- 7.24 Flood Risk and Drainage
- 7.25 The site is not within an area at risk of flooding but if the application was to be approved a condition would be required to mitigate/control surface water.
- 7.26 Construction
- 7.27 The construction of this building is likely to be very difficult, as access is along a public right of way and needs to navigate two trees that benefit from Tree Preservation Orders. With the construction of this site going to be very difficult a Construction Environmental Management Plan would be required, this could be conditioned so it is not considered to be reasonable to refuse it on these grounds.
- 7.28 A phasing condition would also be needed to ensure that the retail (cafe) space is brought back into use before the dwellings are occupied. With the cafe being part of the development it is considered that construction works are unlikely to detrimentally affect the retail unit's viability.
- 7.29 Other Material Matters
- 7.30 If the application was approved a condition could be added to seek an archaeological investigation.
- 7.31 Significant amount of space has been made for bin storage, which is to the merit of the application.
- 7.32 Conditions in regards to potential contamination on the site can be added if members are minded to approve the application.
- 7.33 Those requesting Informatives to comply with other legislation could be duly added if the application was approved.
- 7.34 Planning Balance
- 7.35 It is presumed for the purposes of this report that the application at 10 Forehill has been approved in accordance with officers' recommendation. On this basis this proposed development would create detrimental overbearing and loss of light to

these residents once 10 Forehill is built. In addition the design of the proposal is considered to detrimentally harm the character of this part of the Ely Conservation Area, this reason remains even if 10 Forehill has been refused.

- 7.36 The level of harm significantly outweighs the benefits of bringing forward three residential properties.

<u>Background Documents</u>	<u>Location</u>	<u>Contact Officer(s)</u>
16/00412/FUL	Andrew Phillips	Andrew Phillips
16/00158/FUL	Room No. 011	Senior Planning
14/00939/TRE	The Grange	Officer
15/01028/TRE	Ely	01353 665555
88/01526/OUT		andrew.phillips@ea
89/00488/OUT		stcambs.gov.uk
12/00207/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>