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**MAIN CASE**

**Reference No:** 19/01635/FUL

**Proposal:** Continue use of Shop /Cafe with Alterations & Additions to form 1 No. First Floor Flat, Access, Parking & Site Works.

**Site Address:** 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 Dupré  
Mark Inskip

**Date Received:** 26 November 2019      **Expiry Date:** 27 March 2020

[U191]

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**1.0 RECOMMENDATION**

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

- 1 Approved Plans
- 2 Time limit
- 3 Specified materials
- 4 Construction times
- 5 Submission of sound insulation
- 6 Restriction of external plant/machinery
- 7 Submission of refuse storage details
- 8 Occupation restriction

**2.0 SUMMARY OF APPLICATION**

2.1 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 and extending above the existing ground floor built form. The ridge height of the building will increase to 7.1m, with an eaves height of 5.2m. First floor built form will extend 12m in length and have a width of 9.8m, as it projects across the existing archway. The existing A1/A3 ground floor space will be retained and the residential flat will have a separate entrance. Amendments have

been received within this application to reduce the residential accommodation from two flats to one.

- 2.2 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.**
- 2.3 The application has been called into Planning Committee by Councillor Dupré and Councillor Inskip as a result of the impact on parking due to this being a congested part of the High Street.

### **3.0 PLANNING HISTORY**

#### 3.1

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
11/01010/FUL	Change of use from A1 (butcher shop) to A5 (take away) and installation of extractor fan	Refused	02.02.2012

### **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 an A1/A3 use, 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 – 10 December 2019**

Due to the close proximity of existing properties I would advise that construction times and deliveries during the construction phase are restricted to the following:

07:30 – 18:00 each day Monday – Friday

07:30 – 13:00 on Saturdays and None on Sundays or Bank Holidays

Mixed use property is often a cause for complaint and so I would ask that the applicant ensures sound insulation is sufficient between the commercial property and the flats. Building Control will ensure insulation standards are met, this is just an extra informative. Early consideration of isolation and insulation measures should be utilised to ensure there are not issues in the future as any mitigation measures fitted retrospectively could be more costly.

The insulation from the commercial premises is also important to prevent the risk of odour from food preparation. This would also include any discharge from extract ventilation. I can see that there is an existing cold store on site but that some works will be required to incorporate the flats. Section 20 of the Application Form states that there will be no mechanical plant or machinery on site. I imagine that there may already be an extraction system in place in the kitchen or condensing units in place for the cold store so if possible I would request a condition which prevents any new mechanical plant from being installed without prior approval from the LPA.

As this application concerns a business I would be grateful if you could pass on the attached information to the applicant as it details their duty of care waste requirements for the business.

As the property consists of flats we would advise the developer to gain advice from the Fire Authority to ensure the correct precautions are in place.

Finally, the applicants should be advised that planning permission does not confer immunity from action under statutory nuisance. Either by local authority or a private individual.

**Local Highways Authority - 9 December 2019**

The highways authority has no objection in principal to this application, subject to recommended conditions.

**CCC Growth & Development - No Comments Received**

**Waste Strategy (ECDC) - 30 December 2019**

No objections. Comments as an informative.

**Parish - 18 December 2019**

Sutton Parish Council support the concerns of the neighbours and share those regarding local parking in an already over congested area on the High Street.

**Ward Councillors - No Comments Received**

**Conservation Officer - 24 December 2019**

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 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 posted on the 10<sup>th</sup> December 2019 and an advert was published within the Cambridge Evening News on the 12<sup>th</sup> December 2019.

5.3 Neighbours – eight neighbouring properties were notified. Ten responses were received and are summarised below. A full copy of the responses are available on the Council's website.

- Two parking spaces would usually be required per unit, the only parking is the two existing garages which were already allocated to the shop and these are now being double counted.
- Access to the garage is difficult and they are consequently seldom used for parking.
- The building of two flats above is overdevelopment of the site.
- This area of the High Street already has a high on street parking demand, two flats could produce the need for four parking spaces.
- There are house Martins present in the covered arch, which would be destroyed.
- Inadequate parking space and turning facilities for the flats and commercial premises.
- Consider over the structural implications, noise and inconvenience of joining building onto neighbouring property.
- Whilst the amended scheme for one flat will move it nearer to comply with policy, it will make matters worse as the number of bedrooms has increased.
- Number of recent permissions along the High Street have increased on road parking.
- The loss of the garages and cold store for the Deli may impact the future viability of these premises.
- When building work is completed the Café could claim they have advertised for 12 months and then convert the ground floor to residential.
- The proposal is contrary to policy in the Sutton Neighbourhood Plan as it will deliberately lead to the closure of commercial premises.
- Access to The Close should be kept clear.

## 6.0 **The Planning Policy Context**

### 6.1 *East Cambridgeshire Local Plan 2015*

ENV 1	Landscape and settlement character
ENV 2	Design
ENV 11	Conservation Areas
COM 7	Transport impact
COM 8	Parking provision
COM 3	Retaining community facilities
GROWTH 2	Locational strategy
GROWTH 3	Infrastructure requirements
GROWTH 5	Presumption in favour of sustainable development

### 6.2 *Sutton Neighbourhood Plan*

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

6.4 *National Planning Policy Framework 2019*  
12 Achieving well-designed places  
16 Conserving & enhancing the historic environment

6.5 *Planning Practice Guidance*

## **7.0 PLANNING COMMENTS**

7.1 The main considerations with this proposal are the principal of development, visual amenity, the impact on the Conservation Area, residential amenity and noise, parking provision and highway safety.

## **7.2 Principle of Development**

7.2.1 The Five Year Housing Land Supply report dated June 2019 has concluded that the Council does not currently have an adequate five year supply of land for housing, and as such, the housing policy within the 2015 Local Plan (GROWTH 2) cannot be considered up-to-date in so far as it relates to the supply of housing land. In this situation, the presumption in favour of development set out in the National Planning Policy Framework (NPPF) means that permission for development should be granted unless any adverse impacts of so doing would significantly and demonstrably outweigh the benefits or specific policies in the Framework indicate that development should be restricted.

7.2.2 The proposal seeks to extend the building and create a first floor, which would accommodate one flat. The building is currently A1/A3 mixed use class and until recently was used as a deli/café. The application will retain the existing commercial premises at ground floor and the proposed residential accommodation will not lead to the removal of the existing community facility. The application will protect the existing commercial facility and retail premises, in accordance with policy NP9 & NP11 of the Sutton Neighbourhood Plan. The flat would have a separate external entrance and would not require access through the existing commercial premises. The retail unit is considered to remain largely unaffected by the proposed residential units and the proposal would not result in a loss of employment premises, compliant with policy GROWTH2. Furthermore the site is positioned within the development envelope, and it is considered that future occupiers would have good access to the services and facilities within Sutton and as result would be considered a sustainable location for development.

## **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. The proposal would adjoin onto No.63, however this dwelling has no first floor windows on the west elevation. Additionally, the proposed first floor structure would be stepped in from the front elevation of the adjoining neighbouring property. Whilst the first floor extension does extend beyond the existing rear elevation of the building and neighbouring property, it is not considered to result in detrimental harm to residential amenity. The proposal is not considered to be detrimental to amenity for the following reasons; the two storey built form extends a further 5.2m beyond the existing rear eaves but includes a sloping roof, meaning at the full 5.2m projection the extension only adds a further 2m to the height.

- 7.3.2 A 2.9m distance separates the eastern boundary and the side elevation of the extension. Furthermore, the neighbouring dwelling has a single storey rear extension which separates the access 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. The design, scale and location of the first floor extension is not considered to result in significantly harmful overbearing or overshadowing. 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 parking area and 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.
- 7.3.3 As the residential accommodation would be situated above the existing commercial properties, consideration has to be given to the impact on future occupiers of the flat from the commercial premises. It is considered that the residential amenity of future occupiers would not be significantly impacted by the commercial premises below due to the opening hours and use class. The opening hours for the A1/A3 are restricted to 07:30-19:00 Monday – Friday, 07:30-22:00 Friday – Saturday and 10:00-16:00 for Sunday. Given the opening times and the scale of the premises below, the commercial use is not considered to result in significant noise and disturbance to above occupiers during unsociable hours.
- 7.3.4 Additionally the floor plan of the flat indicates that bedrooms are mainly located above the archway and would not be directly above the main commercial space. It is considered that the A1/A3 use at ground floor level would not be harmful to the amenity of future residents in terms of noise and disturbance. Environmental Health raised no concerns given that sufficient sound insulation is provided, which can be secured via planning condition. In addition the condition request preventing any mechanical plant from being installed without prior approval from the LPA will ensure residential amenity is protected, complying with ENV2.

#### **7.4 Visual Impact and Heritage Asset**

- 7.4.1 The site is visible within the streetscene and 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 minimises the bulk of the

extension. The proposal is considered to be subservient to the neighbouring property and the design of the building ensures a dominant level of built form would not be introduced in the streetscene. 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 of the streetscene.

- 7.4.2 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 Cedral 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.
- 7.4.3 The site is situated within the Sutton's Conservation Area, 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. In addition section 72 (1) of the Listed Buildings and 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 that the proposed addition of a first floor 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. Therefore the proposal is not considered to result in demonstrable 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.
- 7.4.4 In accordance with paragraph 196 of the NPPF it is considered that the proposal would give rise to less than substantial harm to the significance of the heritage asset; and would provide some public benefit in providing for one dwelling, as the council is currently unable to demonstrate a 5 year housing land supply.

## **7.5 Highways**

- 7.5.1 The application originally proposed two residential flats above the existing commercial properties, which meant that four off street parking spaces would have been required for the site. Neighbour concerns were raised over the available parking provision, the safety of the access to the parking and the existing demand for parking along the High Street. It was considered that the two existing garages and the area to the front would not have adequately provided the parking provision and turning space required. Amendments were made to reduce the proposal to only one flat, meaning that the maximum off street parking spaces required is two.
- 7.5.2 It is considered the amended scheme could adequately provide two off street parking spaces within the existing garages or alternatively have sufficient room for the parking of one vehicle to the front of the garages. Therefore, the proposal would supply appropriate parking facilities for the residential accommodation, complying

with policy COM8. Furthermore, it is considered by reducing the number of residential units, safe and convenient access can now be achieved and the parking or access of the neighbouring property is not compromised. Whilst the neighbour concerns have been noted regarding the access, it is still an existing access to a parking area and could be used for parking at this moment in time. The Local Highway Authority raised no objection to application and advised that the development benefits from an existing access with the highway.

## **7.6 Other Matters**

7.6.1 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 and therefore can be handled via a planning condition.

7.6.2 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 employee of the commercial premises. The agent has confirmed that it is the intention to have the shop manager/employee living within the accommodation above. This would alleviate parking concerns and the need for more than two off street parking spaces. This will be secured via condition.

## **8.0 Planning Balance**

8.1 The proposal represents a sustainable form of development within the settlement of Sutton. The application would be a positive contribution to the local and wider economy in the short term through construction work and it would also contribute an additional dwelling to the local housing stock.

8.2 It is considered that the proposal complies with the aims and objectives of policies within the East Cambridgeshire Local Plan, and the 2019 NPPF. The benefits of the scheme in provision of up to a new residential unit are considered to outweigh the harm caused and the application is recommended for approval.

## **9.0 Costs**

9.1 An appeal can be lodged against a refusal of planning permission or a condition imposed upon a planning permission. If a local planning authority is found to have acted unreasonably and this has incurred costs for the applicant (referred to as appellant through the appeal process) then a cost award can be made against the council.

9.2 Unreasonable behaviour can be either procedural ie relating to the way a matter has been dealt with or substantive ie relating to the issues at appeal and whether a local planning authority has been able to provide evidence to justify a refusal reason or a condition.

9.3 Members do not have to follow an officer recommendation indeed they can legitimately decide to give a different weight to a material consideration than officers. However, it is often these cases where an appellant submits a claim for



costs. The Committee therefore needs to consider and document its reasons for going against an officer recommendation very carefully.

9.4 In this case Members' attention is particularly drawn to the following point:

The site is situated within the defined development envelope and is not considered to result in significant harm to residential amenity or the visual appearance of the area.

## 10. APPENDICES

Appendix 1 – list of draft conditions.

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<u>Background Documents</u>	<u>Location</u>	<u>Contact Officer(s)</u>
19/01635/FUL 13/00333/FUL 11/01010/FUL	Molly Hood Room No. 011 The Grange Ely	Molly Hood Planning Officer 01353 665555 molly.hood@eastcambs.gov.uk

National Planning Policy Framework -

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/6077/2116950.pdf](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 – Conditions**

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>
19:105-2	B	10th February 2020
19:105-1		26th November 2019

- 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 materials to be used in the construction of the external surfaces, including external walls, roof tiles, windows and doors, shall be as specified on the application form. All works shall be carried out in accordance with the approved details.
- 3 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.
- 4 Construction times and deliveries, with the exception of fit-out, shall be limited to the following hours: 07:30-18:00 each day Monday-Friday, 07:30-13:00 Saturdays and none on Sundays or Bank Holidays.
- 4 Reason: To safeguard the residential amenity of neighbouring occupiers, in accordance with policy ENV2 of the East Cambridgeshire Local Plan 2015.
- 5 No above ground construction shall take place until a scheme for sound insulation of the building(s) 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.
- 5 Reason: To safeguard the residential amenity of neighbouring occupiers, in accordance with policy ENV2 of the East Cambridgeshire Local Plan 2015.
- 6 No external plant or machinery shall be brought onto the site without the prior written consent of the Local Planning Authority.
- 6 Reason: To safeguard the residential amenity of neighbouring occupiers, in accordance with policy ENV2 of the East Cambridgeshire Local Plan 2015.
- 7 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.
- 7 Reason: To safeguard the residential amenity of future occupiers, in accordance with policy ENV2 of the East Cambridgeshire Local Plan 2015.
- 8 The flat hereby approved shall be occupied by a person working full time in the premises below.
- 8 Reason: The application has been assessed as acceptable on this basis.