



EAST  
CAMBRIDGESHIRE  
DISTRICT COUNCIL

Minutes of a meeting of the Planning Committee held at 1:00pm on Wednesday 3<sup>rd</sup> November 2021 in the Council Chamber at The Grange, Nutholt Lane, Ely, CB7 4EE.

### **PRESENT**

Cllr Christine Ambrose Smith  
Cllr Sue Austen (*from 1:15pm*)  
Cllr David Brown  
Cllr Matthew Downey (*from 1:04pm*)  
Cllr Lis Every  
Cllr Bill Hunt (Chairman)  
Cllr Julia Huffer (Substitute for Cllr Lavinia Edwards)  
Cllr Alec Jones  
Cllr Lisa Stubbs (Vice-Chairman)  
Cllr John Trapp  
Cllr Gareth Wilson

### **OFFICERS**

Maggie Camp – Legal Services Manager  
Angela Briggs – Planning Team Leader  
Tracy Couper – Democratic Services Manager  
Kevin Drane – Trees Officer  
Caroline Evans – Democratic Services Officer  
Barbara Greengrass – Planning Team Leader  
Molly Hood – Planning Officer  
Jade Ling – Communications Officer  
Naomi Matthews – Local Land Charges & Legal Support Officer  
Angela Tyrrell – Senior Legal Assistant

### **IN ATTENDANCE**

Cllr Lorna Dupré (Agenda Items 7 & 8 / Minutes 48 & 49)  
Cllr Simon Harries (Agenda Item 6 / Minute 47)  
Mark Baker (Objector, Agenda Item 8 / Minute 49)  
Bill Bridges (Applicant, Agenda Item 7 / Minute 48)  
Adrian Fleet (Applicant's Agent, Agenda Item 8 / Minute 49)  
Nicky Parsons (Applicant's Agent, Agenda Item 6 / Minute 47)

16 Members of the public.

#### **42. APOLOGIES AND SUBSTITUTIONS**

Apologies for absence were received from Cllr Edwards. Cllr Huffer was attending as a substitute.

#### **43. DECLARATIONS OF INTEREST**

No declarations of interest were made.

#### **44. MINUTES**

The Committee received the Minutes of the meeting held on 6<sup>th</sup> October 2021.

It was resolved:

That the Minutes of the Planning Committee meeting held on 6<sup>th</sup> October 2021 be confirmed as a correct record and be signed by the Chairman.

**45. CHAIRMAN'S ANNOUNCEMENTS**

The Chairman reminded everyone of the deadlines for submissions of additional information relating to agenda items (48h before the start of the meeting) and for registering to speak at a meeting (10am the day before the meeting). He also asked for patience with the procedures in place at the meeting for COVID safety: cleaning of the public speaking table between speakers and, if necessary, changeover of occupants in the public gallery between agenda items.

*1:04pm - Cllr Matthew Downey joined the meeting.*

**46. TPO/E/04/21 – 84 CENTRE DRIVE, NEWMARKET**

Kevin Drane, Trees Officer, presented a report (W88, previously circulated) recommending confirmation of Tree Preservation Order (TPO) E/04/21 for one tree in the rear garden of 84 Centre Drive, Newmarket.

Members were shown aerial photographs of the site together with images of the tree taken from the highway which demonstrated that it was clearly visible from each side of the property. The tree had not previously been protected because there had been no threat to it. It had now been assessed following receipt of a planning consultation request relating to planning application 21/00799/OUT that had indicated the loss of the tree. The tree was visible to neighbouring residents as well as from the public highway and therefore made a visual impact and contribution to the local landscape, as well as providing a wildlife habitat. The tree had been assessed for the TPO on its amenity value, this being the only requirement needed in evaluating trees for the making of new TPOs.

The owner had objected to the TPO on the grounds that he considered the tree to have been in poor condition for many years with no prior concern having been shown for it; the tree was poorly shaped and covered in ivy. In addition, in his opinion, it was not visible from a public place and "significant public amenity" had not been defined. He considered the TPO to be an attempt by neighbours to block his planning application for a new residential dwelling to the rear of the property, and one of the reasons for the refusal of outline planning permission.

The Trees Officer had assessed the current condition of the tree and concluded that there were no visible indications that the tree was in poor health. The ivy was of little concern and could easily be removed or severed. The tree had a natural shape that had been unaltered by pruning and there were no visible defects. He conceded that determination of a tree's amenity value was, to an extent, subjective, however the tree was large with more than half of its total height visible from the public highway and many neighbouring gardens. He therefore considered that the tree benefitted the area in relation to its contribution to the landscape, and it was therefore a significant public amenity.

Public comments had been received in support of the tree in relation to the previously-mentioned planning application although the Officer had not seen those comments prior to assessing the tree and deciding on the TPO. That planning application had been refused on three grounds, only one of which referenced the tree: "No arboricultural information submitted to demonstrate that the proposal would not be harmful to trees on the site, including the mature Walnut tree".

In summary, Members were asked to consider the Officer's and neighbours' opinions in support of the importance of the tree, and the tree owner's opinion in opposition of the TPO. If confirmed, then the tree could not be removed without consent and the Council would need to consider any future tree work applications. If not confirmed, then the Council would be unable to prevent the loss of the tree.

There were no public speakers.

In response to questions from Cllrs Trapp and Huffer, the Trees Officer explained that the presence of the ivy was more of a hindrance to assessing the tree's health than a danger to the tree. Ivy could affect the stability of a smaller tree but that would not be the case for a tree such as the one under consideration and there was nothing to suggest that the tree was currently at risk. Although the ivy could easily be pruned it was not possible to impose a condition to manage the ivy because there was no legislation to allow that.

The Chairman then opened the debate. Cllr Ambrose Smith stated that, whilst she respected the Officer's professional opinion and the considerable charm of the tree to nearby residents, she sympathised with the owner and questioned whether it would be possible to require planting of replacement trees within the neighbourhood if the tree was felled.

*1:15pm - Cllr Sue Austen joined the meeting but did not participate in the debate or voting on this agenda item.*

Cllr Huffer commented that, having visited the site on the previous day, it was clear that there were feature trees in several rear gardens along Centre Drive. She proposed the Officer recommendation, which Cllr Trapp seconded. Cllrs Brown and Wilson added that the TPO would not necessarily prevent the owner from felling the tree, he would simply need to request permission from the Council.

It was resolved, with 9 votes in favour, 1 vote against, and 0 abstentions:

That Tree Preservation Order ref E/04/21 be CONFIRMED for the reasons detailed in paragraph 2.1 of the Officer's report.

**47. 21/00470/RMM – ORCHARDS GREEN PHASE 2A, LAND NORTH OF CAM DRIVE, ELY**

Angela Briggs, Planning Team Leader, presented a report (W89, previously circulated) recommending approval of a reserved matters application for details of appearance, landscaping, layout and scale for the construction of 258 dwellings, four retail units, internal roads, a cricket pavilion, open space and other associated infrastructure to the north of Cam Drive and the west of Lynn Road. The site formed part of the wider North Ely scheme.

Members' attention was drawn to the previously-circulated update list which included updates to conditions 1 and 14, and an additional recommended condition in relation to the cricket pavilion building. If Members approved the application, then this condition would be added to the list of conditions on the approval notice:

Notwithstanding the details shown on drawings P19-0247-39 01 Rev F and P19-0247-39 02 Rev E, and prior to the commencement of development of the cricket pavilion, further details of the cricket pavilion as listed below shall be submitted to and approved in writing by the Local Planning Authority:

- The window for the score box
- The window to the eastern primary changing room

The works shall be completed in accordance with the approved details.

Reason: To safeguard the character and appearance of the area, in accordance with Policy ENV2 of the East Cambridgeshire Local Plan, 2015.

A site location plan, aerial photographs and site photographs were shown to illustrate the site's position to the north of Ely and extending to Chettisham with the A10 to the west and Lynn Road to the east. The total area was ~18.49 hectares (45.19 acres). A further area of Phase 2 land intended for a care home adjacent to Lynn Road was not included in the reserved matters application and would be a separate Phase 2B application. The aerial photographs, a phasing plan and site context plans also demonstrated the site's location in relation to the other development phases of the North Ely scheme. Phases 1 and 3 to the south of the site were already under construction and included The Orchards care home and the Isle of Ely primary school as well as residential areas and parcels for retail units and a pub. The care home and school were already occupied and the commercial elements were being marketed for potential clients to bring forward. Approximately 110 of the approved 199 dwellings in Phase 1 had now been completed and most were now occupied; Phase 3 had approval for 258 dwellings, construction had begun but no homes had yet been completed. An additional roundabout on the A10 would also be delivered as part of Phase 3. Phase 5 would be to the south of the application site (and north of phases 1 and 3) and Phase 4 would be to the north although the majority of the country park elements of the current application extended to the west and north of Phase 4 up to Chettisham.

There would be four character areas in Phase 2A: Long Fen (Country Park) to the west extending the full length of the site, Orchard Barn to the east along Lynn Road, Two Mills between Long Fen and Orchard Barn, and a small section of Orchard View to the south east of the site with the remainder to be delivered in Phase 5. Two Mills would be the lowest density area, comprising detached and semi-detached dwellings as well as the sports pitches and cricket pavilion, and would be the only area to front on to the country park. Orchard Barns would include four retail units on the ground floors of two accommodation blocks facing Lynn Road.

The S106 agreement had been modified by two applications submitted in 2019 to amend the provision of the cricket facility, to split Phase 2 into Phases 2A and 2B, to secure the early delivery of the new A10 roundabout, and to confirm the affordable housing quantum across the wider site. At that stage the Committee had approved 18% affordable housing for Phase 2A.

The proposed site layouts showed the green landscaping and demonstrated that the application was a landscape-led scheme which included delivery of the remainder of the country park and the link to Phase 4 and to Chettisham. A site plan illustrated the locations of the affordable housing units and examples of floor plans and elevations were also shown together with street scene elevations and CGI of each character area and the cricket pavilion. A movement framework diagram showed the main spine road, all other streets and private driveways, the pedestrian and cycle ways, and the footpaths through the open spaces.

The main considerations for the application were deemed to be:

- **Principle of development** – outline approval had been given for this section of the North Ely development in 2016 with permission for up to 1200 dwellings, employment and community uses. The planning approval specified the submission of Design Codes for each of the character areas in order to identify development patterns and a materials palette that would make each character area a distinct unit with its own identity. All of the Design Codes relevant to Phase 2A had now been approved.
- **Housing mix and density** – phase 2A would include 258 dwellings of which 46 (18%) would be affordable homes, in accordance with the previously-approved quantum for this phase. 55 properties would be designed and constructed as life-time dwellings and 52 as flexible dwellings with provision for home working. The social rented and shared ownership housing would be tenure blind and well-integrated amongst the market dwellings. The market dwellings would be 2-bed apartments and 2- to 5-bed houses, the affordable housing would be 1-bed and 2-bed apartments and 2- to 4-bed houses. The housing densities of each character area were in accordance with the approved Design Codes.
- **Character and appearance** – the developer had chosen to adopt a Georgian architectural style and had selected a palette of materials that would be in keeping with the character of Georgian Ely. Planning Officers and the Urban Design Consultant had worked with the developer to refine the architectural details.
- **Residential amenity** – the proposal was in accord with the Design Guide SPD in respect of plot sizes and amenity spaces. Consideration had been given to the positioning of buildings near the separate “Twinwoods” development to the north of the site, with sufficient distances between the windows and boundaries of the properties. Consideration had also been given to the impact of the sports pitches and the retail units on the nearby residential properties. Several plots in the Two Mills character area had been reviewed to overcome concerns regarding the noise of the nearby A10 and had been amended to minimise the noise impact whilst enabling an acceptable level of amenity.
- **Green infrastructure and landscaping** – phase 2A contained a significant amount of landscaping and green infrastructure. It would complete the country park to Chettisham and there would be tree-lined streets and open spaces in accordance with the approved Design Codes. The sports pitches, commercial units and residential development also accorded with the parameter plan that was agreed under the outline permission. All existing trees and vegetation would remain except where removal was essential to facilitate the scheme. Approximately 273 trees would be planted and would include a mix of species with any soft trees being at least 5m from any highway (including footpaths) to prevent a slip hazard. Conditions were

recommended to ensure the implementation of the planting schedule and to require their maintenance for a minimum of 5 years.

- **Car and cycle parking** – 60% of the allocated car parking spaces would be non-tandem with the remaining 40% tandem. 55 unallocated/visitor spaces and 62 garage spaces would also be provided. All residential plots would have cycle parking, as would the retail units and cricket pavilion. In total there would be 612 car parking spaces which was in accord with the Council's parking standards and similar to the provision in Phase 3.
- **Ecology** – the proposal would deliver the remainder of the country park, would enhance the existing green infrastructure, and would create new features that would provide new habitats. Further enhancements would include bird and bat boxes integrated within the dwellings and attached to the trees in the country park. The Cambridgeshire Wildlife Trust had accepted the Biodiversity Assessment that had been submitted with the application. An arboricultural statement and tree protection plan had also been submitted and were acceptable in terms of protecting the trees on site and adding to the site's biodiversity value. The proposal was in accord with the North Ely SPD, policy ENV7 of the Local Plan, and the Natural Environment SPD.
- **Other matters** – the proposal had adequate bin storage and collection arrangements in accordance with policy ENV2 of the Local Plan. The proposal included an Energy Statement setting out the sustainability approach for the site and an indicative plan for the use of solar PV panels on the cricket pavilion and some of the plots. Conditions were recommended regarding further details of the solar PV panels provision and the developer's commitment to delivering electrical vehicle charging points. In terms of sustainability, the proposal complied with policy ENV4 of the Local Plan, the approved Design Codes, and the Climate Change SPD. Site-wide drainage issues had been covered under the outline planning permission, subject to phase-by-phase details. Amended plans had overcome initial concerns raised by the Lead Local Flood Authority and the Internal Drainage Board and the drainage was therefore acceptable and compliant with policy ENV8 of the Local Plan and the Flood & Water SPD.

In summary, the proposal was considered to accord with the outline planning permission, the parameter plans, and the approved Design Codes. The applicant had committed to securing off-site pedestrian and cycle path infrastructure improvements as well as the inclusion of further on-site environmental improvements such as electric vehicle charging points and solar PV panels. It was considered that the reserved matters application did not give rise to any adverse effects that would significantly outweigh the benefits of the scheme and therefore the application was recommended for approval.

The Chairman thanked the Case Officer for her very comprehensive report and invited a member of the public, Katie Betts, to address the Committee. She explained that, although registered as an objector, she was not objecting as such, rather she had some comments and concerns to supplement those that she had submitted in the consultation phase and had in part been included on page 37 of the report. As a long-standing resident of Chettisham she had taken a keen interest in the proposed development and had concerns about depleting the environmental content and access for Chettisham residents. In view of the recent archaeological findings, ie the Roman road of national significance, she felt strongly that the

findings should be reflected in the final version of the development layout, for example within the green space at the northern end. She also considered it to be extremely important to pay detailed attention to the landscape design. She was pleased to see more footpaths and cycleways and stressed the importance of linking them in with existing routes into Ely and the surrounding area. She also highlighted the need for careful planning and maintenance to ensure that they were safe and pleasant to use, in particular there were some concerns that, if neglected, there was potential for antisocial behaviour at the northern end where vegetation already existed. Given the interesting and well-planned landscape, it would be important for qualified people to maintain it.

In response to a question from Cllr Brown, the speaker agreed that condition 5 on page 64 of the report would satisfactorily address her concerns about the maintenance.

The Chairman then invited the applicant's agent, Nicky Parsons, to address the Committee. She explained that she was speaking as a Planning Consultant for Vistry and that the development would be delivered by one of Vistry's brands, Linden Homes. The principle of development on this site had already been established and the details in the application were consistent with the requirements of the outline planning permission. The scheme had been developed through extensive consultations with Officers and statutory consultees and had resulted in a beautiful design consistent with the approved Design Codes. The proposal would deliver housing, retail, open space and sports provision. The cricket pitch and pavilion had been developed with Ely Cricket Club, Sport England, and the ECB, and Members were reminded of the additional condition that had been circulated in the update sheet and highlighted by the Planning Team Leader. Sustainability measures had been included in the pavilion and its design was deliberately functional for ease of use and maintenance. A full-size cricket field and three youth football pitches would be delivered together with the large open space at the northern end of Long Fen. There would be new planting and footpaths, as well as seating, to enhance both leisure and biodiversity. In terms of play, there would be a trim trail within the country park encompassing a range of activities and following the course of the footpath. 258 high quality new homes would be provided in a range of sizes, 46 of which would be affordable. The Design Officer supported the plans as an enhancement of earlier versions. The number of tandem parking spaces had been reduced to 40% of the total, most allocated parking spaces were within the curtilage of the property, and there would be 55 visitor spaces which was considered to be generous given the sustainable location. There had been no objections from statutory consultees and the proposal complied with the outline permission and with the Design Codes, therefore the Committee was asked to approve the application.

Cllr Huffer asked whether the trim trail would include equipment for non-able-bodied individuals, and how many electric vehicle charging points would be provided. The agent highlighted that the details of the play equipment were required by condition, and she committed to taking the idea of accessible equipment back to her clients. In terms of charging points, again the details would be required by condition, and a generous number would be provided although she could not specify a number at this stage.

Cllr Trapp highlighted the importance of vehicle charging points being connected to the dwellings to enable overnight charging, and asked how that would be achieved for the apartments situated above the retail units. The agent referred back to the parking provision with most spaces either being on the relevant plot or directly outside it, thereby making connection easier. There would be car parking behind the apartment blocks containing the retail units and charging points could be incorporated in those spaces. Cllr Trapp also asked about the management and maintenance of the landscaping, and why there were not more solar panels since the plans indicated that a large number of the roofs would be north/south facing. The agent confirmed that there would inevitably be a service charge because a management company would be needed and she explained that the advantages of a management company were that the quality of the environment could be maintained. Regarding the provision of solar panels, the details about the PV panels were required by condition and the developer would be ensuring energy efficiency.

Cllr Brown requested bus shelters at the bus stops within the site and the agent agreed to investigate whether they would be provided. She informed Cllr Every that there were triggers in the legal agreement as to when the country park extension needed to be delivered, and she explained to Cllr Ambrose Smith that all of the paths within all phases of the wider development would need to link together (overseen by the main developer) and over time it was likely that the residents would take more control of the management company for the development. In response to a question from Cllr Wilson, the agent stated that gas boiler heating systems would be installed in the first properties. From 2025 that would not be possible but any heating system would need to be easily understandable for the new residents. Regarding questions from Cllrs Jones and Trapp about the retail units, she explained that they were 150sqm each and for "high street use" which covered a broad range of potential uses. Retailers required a high street frontage for passing trade, to be equally accessible to the existing and new communities, and for that reason they had been positioned along Lynn Road. Cllr Hunt made the point that non-tandem parking was greatly preferred over tandem on developments within the District.

Cllr Harries then addressed the Committee as the local Ward Member. He commented that many of the Members' questions had echoed his own and that the principle of development in this location was well-established and accepted. He had no objection to the development itself. The Officer's report was a comprehensive document that made it clear to the reader that many thoughts, ideas and objections had been taken seriously and had been addressed. The concerns that he wished to raise related to the future. For example, the number of electric vehicle charging points would be crucial and therefore a process was needed to ensure that the right amount would be installed. Regarding the landscaping of Long Fen, he was aware of local concerns about the type of planting, and he knew that local people wanted to be involved in the detail of planning it to ensure that the green space would be good for habitats and biodiversity by vigilance and collaborative work. A significant concern was related to the retail space, and in particular a lack of provision for food shopping within walking distance, since he believed that each of the four units would individually be too small for a good quality profitable food shop. He suggested that it would be wise to design them in such a way that they could be combined into a larger shop or shops if desired.

Cllr Huffer informed Cllr Harries that the 2.5k residents of Fordham had until very recently been well served by a Co-op of similar size to one of the proposed units.

The Case Officer responded to several of the points raised by the speakers as follows:

- The location of the retail units had been approved in the outline permission and this application followed that rule.
- In the S106 agreement, the trigger points for the open spaces were that a) no more than 50% of the dwellings could be occupied before 50% of the Phase 2 open space had been delivered, and b) no more than 75% of the dwellings could be occupied until all of the Phase 2 open space had been completed.
- Regarding the Roman road, the position of the spine road had been agreed in the Spine Road Design document in the outline permission and therefore it could not be moved.

In answer to a question from Cllr Trapp, the Case Officer confirmed that other phases of the wider development would have a higher percentage of affordable housing as detailed in the report. The developers had assessed the viability of the quantum of affordable housing in each phase to deliver in accordance with local housing need. Cllr Wilson questioned whether the affordable housing could be pepper-potted around the site rather than being grouped together. The Officer explained that the locations were acceptable and the properties would be tenure-blind; they would be indistinguishable from a design perspective.

Cllr Trapp revisited the suggestion that four 150sqm retail units may not be the best provision and that a more flexible allocation of the total retail space could be preferable. The Officer stated that the four units were required in the outline permission, as shown on the Land Use parameter plan, and it would not be possible to require the developer to specify who the end users would be. In answer to a question from Cllr Ambrose Smith about visitor and/or delivery parking, the Officer reiterated that the scheme was designed to accord with the Council's car parking standards.

Cllr Downey requested further information about the level of provision of electric vehicle charging points and solar panels that would be required. The Officer explained that there was no specific figure to reference and there was no Local Plan policy on either charging points or solar panels. However, the proposed planning conditions gave flexibility to ensure a good provision. 100% coverage would be ideal but was probably not achievable; the situation would be reviewed and advice sought at the appropriate stage. Barbara Greengrass, Planning Team Leader, added that although there was no policy on the provision, almost 100% had been achieved on another development and therefore the Officers would be aiming for the maximum possible on this development as well. Cllr Trapp stated that he had understood there to be one charging point per dwelling but the agent responded that she had not made that commitment.

The Chairman then opened the debate. Cllr Huffer stated that she believed the application to be well thought out by the developer following good engagement with Officers and Members to address concerns. Consequently, she proposed that the application should be approved in line with the Officer's recommendation and Cllr

Every seconded the proposal. Cllr Brown agreed that the many alterations detailed in the report demonstrated the willingness of all parties to work together and he commended the huge amount of work involved. He also commented favourably about the design of the pavilion as a functional building which would be relatively cheap to maintain. Cllrs Hunt, Trapp and Wilson added their appreciation and praise for the many months of hard work. Cllr Wilson remained concerned about the grouping of the affordable housing, although he was satisfied that it would be of a good standard. Cllr Trapp emphasised the importance of the electric charging points and asked that, if they didn't provide charging points for every dwelling, then the developer should install underground cables to enable residents to easily install one themselves.

It was resolved unanimously:

That planning application ref 21/00470/RMM be APPROVED subject to the recommended conditions detailed in Appendix 1 of the Officer's report with the necessary amendments to conditions 1 and 14, and an additional condition regarding the cricket pavilion to address further stakeholder comments, all as detailed in the Update Sheet.

**48. 21/00818/FUL – AMBERLEA COUNTRY KENNELS AND CATTERY, ELY ROAD, SUTTON**

Molly Hood, Planning Officer, presented a report (W90, previously circulated) recommending refusal of an application seeking replacement staff welfare facilities and an accommodation unit on the site of Amberlea Kennels and Cattery.

Members were shown a site plan, an aerial site image, and a block plan to illustrate that the site lay outside both the development envelope for Sutton and the Neighbourhood Plan area. It had an extensive planning history which was detailed in the report and summarised by the Officer as follows:

- April 2007 - Construction of staff facilities and reception building approved.
- January 2010 - Change of use from staff facility/office building to single one-bedroom living accommodation refused and subsequently dismissed at appeal.
- April 2010 - Change of use from staff facility/office building to include temporary overnight accommodation approved with restrictions regarding the total and consecutive numbers of nights that it could be in use. (This application was also referenced in the appeal for the previous application due to the time taken by the Inspector to determine the appeal.)
- January 2016 - Certificate of Lawfulness for staff facility/office buildings including provision for overnight accommodations for a manager refused due to insufficient evidence regarding the passage of time.
- April 2016 - Change of use from a staff facility/office to a permanent one-bedroom residence, use Class C3 – dwellinghouse, approved.
- December 2016 – Proposed demolition of part and extension to existing building to provide a new and permanent reception, office and sales area and an addition bedroom approved and tied to the business by a planning condition.

Site photographs, proposed elevations and a floor plan showed the proposed single-storey, flat-roofed, building which would be split into three separate areas

comprising a store, staff welfare facilities (kitchenette in the living area), and overnight accommodation (kitchenette in the living area, shower room, store, wardrobe/cupboard and one bedroom).

The main considerations for the application were deemed to be:

- **Principle of development** – a further single-bedroom unit of accommodation was sought to facilitate the owner's retirement, however it was not considered that the retirement would warrant automatic need for a second on-site residential dwelling. Licensing Officers had been consulted and it was accepted that there was a need for staff facilities to support a secondary staff member, however a separate self-contained dwelling was not considered to be necessary and no essential need had been demonstrated. Planning Officers had suggested that the plans be revised to provide a communal room (including a kitchenette) with a shower room and single bedroom off the main space in order to provide a place of rest for an employee working during the night; the applicant had disagreed. Multiple aspects of policy HOU5 had not been addressed and the proposed development was considered to be contrary to it.
- **Residential amenity** – the single-storey, flat-roofed proposal had no windows to the rear elevations and all windows and openings would face the kennel and cattery site. It was not considered that it would cause noise or disturbance. The proposal was therefore not considered to be detrimental to the amenity of the occupiers of the adjacent site.
- **Visual impact** – the proposed building would replace an old static caravan and was not considered to be visually intrusive or dominant. It would be in close proximity to other buildings and well-screened by western and northern boundaries. It had been sensitively designed and conditions could be applied with regard to landscaping.
- **Highway safety** – the existing access to the site would be retained together with the existing parking area to the front of the site. The new facility would support the existing workforce and was not considered to cause an increase in traffic.
- **Other matters** – vegetation on the site would be retained and soft landscaping and biodiversity enhancements could be secured by condition, including protection of the mature hedge to the rear of the proposed building. Details of foul and surface water drainage could also be secured by condition. The Agent had advised that the new building would be constructed to current building regulation standards and would be better than the existing static caravan in terms of energy and water efficiency.

In summary, the proposal was considered to fail to demonstrate an essential need for a further workers dwelling on the site and failed to meet multiple requirements of policy HOU5. It was therefore recommended for refusal.

On the invitation of the Chairman, the applicant, Bill Bridges, addressed the Committee. He explained that he was an administrative partner of Amberlea Kennels & Cattery, a successful local business employing local people. The application was to replace an existing old caravan with a building of a similar size and much improved amenity. The total size represented ~5% increase on the original 2010 application which had been approved for use 185 nights per year. He explained that there had been an update to animal welfare regulations in 2018 which required a competent person to be available at all times for each licence; the

cat and dog licences were separate and therefore two people were required on-site overnight but, in reality, three were needed in order to provide cover for unforeseen eventualities. The premises were licensed for 65 cats and 60 dogs and held 5-star status which they wished to maintain and that generally required seven to nine staff members each day to maintain a 1:15 staff:animal ratio. The business employed nine permanent staff and four seasonal workers as well as supporting apprentices and/or work experience positions. His home was adjacent to the premises but not tied to the business; at present, he and his wife and the manager all worked for the business but, once he and his wife retired, only the manager would be on-site overnight and therefore there was a clear need for overnight accommodation in order to satisfy the licence requirement for two competent people to be present at all times. The proposed new accommodation would be used by permanent staff members but would not be a permanent dwelling designated for one individual staff member. He considered that the Officer's proposed suggestion to reduce the size and place the bedroom off the communal facilities would result in a poor standard of accommodation for his staff. The proposed building was essential for the continued success of the business.

Cllr Huffer confirmed, as Chair of the Licensing Committee, that the applicant's understanding of the 2018 regulations was correct. She asked him to clarify the staff numbers required overnight. He explained that there were always two staff members on-site overnight but there needed to be provision for three at busy times in order to provide cover in the event of out-of-hours vet attendance or other unforeseen circumstances. Currently he and his wife were able to provide the third person back-up, and someone stayed in their home to fulfil that requirement if they were away. Once retired, neither of those options would remain available to the business since their house was not tied to the business and they intended to remain resident in it after retirement.

Cllr Jones questioned the restriction of 185 nights in the caravan and asked if amending that would be beneficial. The applicant explained that the 185 night restriction no longer remained in place since the permanent residence for the manager had been approved. In response to Cllr Ambrose Smith's question about the existing caravan, he explained that it had been in situ when he bought the site ~20 years ago and it was not new at that point. It was not insulated and served purely as a staff mess and storage area but needed to be replaced; he was simply trying to add a sleeping area as well in case of incapacitation. Cllr Every then queried why the Officer's suggestion would not satisfy that requirement. The applicant stated that it was substantially smaller than his proposal. The current caravan had a floor area of ~22sqm and had been in place when permission was granted for a staff facility. The combined floor area of the proposal and the existing staff facility was similar to the combined area of the caravan and approved staff facility. The new building needed to be large enough to accommodate two people if required at busy times, and was therefore designed to fit two beds. In addition, if staff members were staying for a longer period, then it would be important for them to have a living space separate from the communal mess area. Finally, in response to a question from Cllr Trapp, he explained that the business operated 24/7 365 days per year and no one staff member worked the same shift all week, so there was no intention for an individual to live in the new accommodation; different people would sleep there at different times. This was different from the on-site bungalow which was a permanent residence for the manager.

The Chairman then invited Cllr Lorna Dupré to address the Committee in her role as Ward Member for Sutton. Cllr Dupré explained that she had called-in the application to Committee for consideration because she considered that refusal would unreasonably prevent a successful local business from being able to comply with the terms of its licence on the retirement of its owner. The applicant had explained that the proposed change would improve the quality of staff accommodation and it was a successful local business that had grown substantially in recent years. Licensing required a minimum of two staff members with back-up and the owners lived close enough to provide that on-call facility meaning that the conditions were currently met. However, the owners wished to retire without losing their home and therefore wanted to upgrade the existing caravan in order to provide overnight accommodation for a staff member in order to comply with the licensing conditions. It would be unreasonable to expect the additional overnight staff member to have nowhere to sleep and/or no privacy during their overnight shifts. The proposed location was discretely positioned in a rear corner of the site and no negative responses had been received. The application complied with policies ENV1, ENV2, ENV4, ENV7, COM7 and the Climate Change SPD, and approval would enable the business to continue without the owners having to move away on retirement.

There were no questions for the Ward Member.

The Planning Officer clarified that there were no restrictions on the use of the existing mobile home; prior to the granting of permanent residence status there had previously been restrictions on the building that was now used as the Manager's accommodation. She also reminded Members that Licensing Officers had determined that two staff members were needed on-site at all times but there was no requirement for them to live there.

Cllr Huffer emphasised that she did not consider the proposal to constitute a permanent residence, rather it would be overnight accommodation for whoever was working the overnight shift. Currently the applicants provided the back-up that enabled the business to retain its 5-star status by having three staff members on duty overnight: two working and one as back-up. The Planning Officer replied that the design of the proposal meant that the sleeping area could be considered a separate residential unit and therefore the application was being viewed as for a dwelling; the Officer's revised proposal had been intended to address this. She reiterated that the advice she had received from Licensing Officers was that only two staff members were required on-site overnight and that only one of them needed to be alert and working. Cllr Huffer responded, as Chair of the Licensing Committee, that there were two licences – one for the cats and one for the dogs – therefore a working staff member was needed for each licence in order to maintain the 5-star status and it was also unrealistic to expect one person to patrol over 100 animals.

Cllr Wilson asked for clarification that the Officer's objection to approval was due to the building being considered to be in open countryside and in excess of the business requirements. The Officer confirmed that the application was contrary to policy HOU5 in respect of rural workers' dwellings.

Cllr Downey asked for further detail regarding the Officer's earlier comment that the application failed to meet multiple requirements of policy HOU5. The Planning

Officer explained that the main issues were that the requirement for a demonstration of essential need had not been met, no evidence had been supplied regarding the difficulty of recruitment/retention of staff, the construction of the building was not unusually expensive, there was no evidence of other suitable properties in the local area and there had been no demonstration that there were no other suitable buildings on site for conversion or that no buildings had been sold on the site in the last 5 years.

Cllr Trapp requested more information about the applicant's comments regarding the amalgamation of two buildings to create one building of a similar footprint. The Officer clarified that the applicant had been referring to a combined footprint of the manager's bungalow at the front of the site and the proposed building at the rear. (With the permission of the Chairman, this was confirmed by the applicant.) The proposed building would have a larger footprint than the existing mobile home that it would replace.

The Chairman then opened the debate. Cllr Wilson commented that he felt the application to be reasonable and he did not consider the building to truly be within the open countryside or a dwelling since it would provide accommodation for multiple people at different times. He therefore proposed that the application be approved, against the Officer's recommendation, on the grounds that it was not contrary to policy HOU5. Cllr Huffer seconded the motion and added that she considered the additional accommodation to be vital to the success of the business. She understood the Officer's viewpoint but was in agreement with Cllr Wilson that the building would be overnight accommodation for staff on a rotating basis rather than a dwelling. Cllr Austen commented that she would also have been willing to second the proposal. Cllr Downey agreed with the other Members and applauded the applicant's attitude to his staff and the animals. He expressed concern regarding the apparent anomaly regarding how licensing policy pertained to overnight accommodation, and concluded that the proposal did appear to meet the requirements of policy HOU5. Cllr Trapp commented that the replacement of inadequate staff facilities with a better standard was important and he suggested that the building should be tied to the business. The Planning Team Leader indicated that, if approved, a condition could be included to that effect.

It was resolved unanimously:

That planning application ref 21/00818/FUL be APPROVED on the grounds that the proposed development does not constitute an additional dwelling in the open countryside but is staff accommodation to be used by a number of employees at different times to meet the Licensing requirements of the business, and so is not contrary to Policy HOU5.

It was further resolved:

That the Planning Manager be given delegated authority to impose suitable conditions including that the accommodation unit be tied to the business.

*3:37 – 3:43pm – meeting adjourned for a comfort break.*

49. **21/01178/FUL – DELI@65, 65 HIGH STREET, SUTTON**

Molly Hood, Planning Officer, presented a report (W91, previously circulated) recommending approval of an application seeking permission for a new ducting system and odour control measures for an existing use class A1/A3 with ancillary takeaway, revised opening hours, and first floor flat, access, parking and site works.

She apologised to Members for an error in paragraph 7.91 of the report: the final word should read “approval” rather than “refusal”.

The Committee were shown a block plan, aerial photograph and site photographs demonstrating that the site lay in a mixed commercial and residential area within the development envelope, the conservation area, and the Neighbourhood Plan area. Proposed elevations illustrated the external changes and indicated the positioning of the ducting system which was mostly internal on the western elevation. New opening hours of 12:00-23:00 Monday – Sunday were also sought. Planning permission for the flat had already been granted in 2020 and, although the current application contained revisions to its design in order to accommodate the ducting system, its dimensions and rooms remained the same.

The main considerations for the application were deemed to be:

- **Principle of development** – the existing commercial use classes E(a) and E(b) would be retained (formerly known as mixed use A1/A3 with ancillary takeaway), there would be no loss of employment and the future occupiers would have good access to services and facilities. The community facility would be retained and would be unaffected by the residential element. Concerns had been expressed about the possible conversion to a takeaway but the application did not request a change of use and permission would be required to alter the use class to a takeaway.
- **Residential amenity** – extensive consultations had taken place with Environmental Health regarding the extraction system. Sound insulation would be required around the ducting in addition to that already required between the flat and the shop. An occupancy condition would be applied to tie the flat to the ground floor business and consequently Environmental Health had no concerns with the internal aspects of the new extraction systems. The ducting was located away from the adjoining property, 63 High Street, and therefore its noise impact on that dwelling was expected to be similar to that on the neighbour to the other side, 65a High Street, which had been considered in the Noise Assessment Report. Regarding the proposed new opening hours of 12:00-23:00 every day, the premises would be open later into the evening although the total permitted hours would be similar to the present permission which allowed 07:30-19:00 Mon-Thurs, 07:30-22:00 Fri-Sat, and 10:00-16:00 Sun. Surrounding commercial premises including two takeaways, a shop and a pub all had closing times between 22:00 and 23:00 therefore the proposed hours would not be out of character with the area or the use classes already permitted. The additional built form, revised opening hours, new ducting and odour measures were not considered to result in significantly detrimental harm. Conditions had been recommended for sound insulation, opening hours, maintenance, securing of use classes, noise and construction hours.
- **Visual impact** – the proposed extension would remain subservient to the neighbouring property and matching materials would be used with the

addition of weatherboard. The extraction system would be predominantly internal and the flue was not considered dominant. The proposal was not considered to result in significant harm to the Conservation Area.

- **Highway safety** – concerns had been raised regarding parking but there had been no objections from the Local Highways Authority. There were two parking spaces in the rear garages with a turning area in front, the deli/café had not offered customer parking and, due to the height restriction on the access, it was considered likely that deliveries would be kerbside. The parking situation had previously been accepted when permission was granted in 2020 for continued use of the shop/café and construction of a new first floor flat.
- **Other matters** – biodiversity enhancements would be met through elevation elements and could be secured by condition. Although no information had been submitted related to the Climate Change SPD that omission would not warrant refusal for an application of this size. A condition was recommended to ensure appropriate waste storage on site.

In summary, the proposal was not considered to be harmful to highway safety, residential amenity, or visual amenity of the area or conservation area. The principle of development was acceptable and the application complied with the Local Plan 2015 and the Sutton Neighbourhood Plan, it was therefore recommended for approval.

On the invitation of the Chairman, Mark Baker addressed the Committee on behalf of 33 local residents, several of whom were present at the meeting, to object to the application. He explained that he had lived next door to the nearby Sunrise takeaway in Sutton for 39 years and in his experience the ventilation system and general operating noise continued after closing time during the clean-down process, and the back door was often open for ventilation. In the case of this application, the back door was very close to the nearest neighbour and the flue would be less than two car lengths from the neighbour's window as well as being taller than that sought in a prior application. He drew Members' attention to Officers' recorded comments on previous planning applications for this site, including:

- The need for cleaning of the premises after hours, which would extend the period of activity on site, and that odours could harm neighbours' residential amenity via open windows and doors on the premises even if suitable extraction equipment was in place (ref 11/01010/FUL, refused).
- The need to restrict opening hours by not permitting evening opening in order to safeguard the residential amenity of neighbours (ref 13/00333/FUL, approved).
- Recognition that evening opening on weekdays could be detrimental to neighbours (ref 15/00091/VAR, approved), and subsequently referenced again (19/01635/FUL, approved).

In his view, more weight needed to be given to not extending the opening hours. He also highlighted to Members that no other village outlets shared their outside space with a neighbour and therefore this application differed in that respect.

There were no questions for the objector.

The Chairman then invited Adrian Fleet, agent for the applicant, to address the Committee. The agent thanked the Officer for her measured report and

recommendation to the Committee. He reiterated that the first floor flat had previously been approved and was only included in this application in terms of minor amendments to accommodate the new ducting system. The owner was experiencing difficulties in renting out the premises for A1/A3 uses in its current condition and believed that better ventilation and revised opening hours would make it more attractive. The existing use class would not change and the site was located in a mixed commercial and residential area of Sutton, the owner was seeking parity with the opening hours of nearby commercial uses. However, the request for revised opening hours was secondary to that for the installation of ducting and the applicant would be willing to accept a reduction in the requested hours to close at 21:45 rather than 23:00. The applicant understood that a takeaway business was not permitted, and that the Council could take enforcement action if the use class permissions were breached.

In answer to a question from Cllr Downey, the agent confirmed that the applicant would be willing to close at 21:45 if that was the Committee's primary concern regarding the application. Cllr Every asked for details about its current occupancy and was informed that the property was empty and advertised on the rental market. A number of viewers of the property had reported that it was not suitable for their requirements and, if no businesses came forward, then the owner would intend to use the premises as a restaurant.

Cllr Dupré was then invited to address the Committee as the Ward Member. She stated that she had called-in the application together with Cllr Inskip on the grounds that the on-street parking was already under huge pressure, the plant equipment would need to operate into the late evening due to the revised opening hours, the application failed policy NP11 of the Sutton Neighbourhood Plan due to having an adverse impact on residential amenity, and because they believed it to be a "stealth" application for a hot food takeaway. Parking on the south side of the High Street was already very busy and Members' attention was drawn to the refusal of an application in 2012 on parking grounds; the parking situation had deteriorated since then. In addition, the storage area for the business would be very limited due to the existing cold store becoming a stairway and therefore the likelihood was that the garage would need to be used for storage. There would also be insufficient space for the storage of waste without impinging on 63 High Street. There would be a negative impact on neighbours, in particular those at the adjoining property. The 2012 refusal had cited noise, smell and disturbance amongst the reasons for that refusal. The proposed installation of an Indian cooker, tandoor and fryer suggested that a hot food takeaway was intended rather than a retail/café business. The previous café use had been very popular and there was no evidence that it was not a viable business, therefore the application contravened policy NP9 of the Neighbourhood Plan; Cllr Dupré believed there was considerable demand for such a community use.

Cllr Wilson asked for more information about previous occupancy of the site and about takeaway provision in the village. Cllr Dupré explained that for many years the property had been a butcher's shop, then it became a café with some retail (delicatessen / kitchen equipment) before transfer of ownership. The café had been very popular and she suspected that there would be even more demand in the new era of increased working from home. In terms of takeaways, Sutton had a Chinese almost opposite the site, an Indian nearby, and a Fish & Chip shop on the outskirts of the village. She also agreed with him that many people had walked

to the café during the daytime but may be more inclined to drive to an evening establishment.

In response to a question from Cllr Downey, she confirmed that she believed the “plant equipment” to be the new ducting that had been applied for. In discussions with Cllr Huffer regarding opening hours and the inability of the Committee to pre-empt future scenarios or give weight to belief of “stealth” reasoning, Cllr Dupré explained that, although the café did have permission to open until 10pm Friday-Sunday, this had never been utilised and the impact on evening parking and residential amenity, if the extended hours and flue work were approved, would be detrimental. She confirmed to Cllr Hunt that dense parking along the south side of the road, and often on the north side in breach of road markings and regulations, was very regular and in her view would be made worse by approval of the application. In response to Cllr Trapp, she said there was no evidence either way as to whether a new takeaway in this location would take business from the existing establishments or attract new customers from the edges of the village, or further afield, which would require additional car journeys.

The Planning Officer then reminded Members that the application did not seek to change the use class to permit a takeaway business. The existing permitted use classes allowed for retail, café, restaurant and ancillary takeaway business. Since the application was not seeking to change the use of the premises it was not possible to require additional parking.

Cllr Huffer asked for, and received, confirmation from the Officer that the premises could not be used solely as a takeaway. The Officer further stated that a condition had been proposed to prevent future use as a takeaway business in the event that General Permitted Development was to change. Cllr Downey questioned why the Noise Assessment Report had not included the property adjoining the application site (63 High Street) and asked how it had been possible to conclude that the plant equipment would not operate at night, given that the requested opening hours ended at 11pm. The Officer responded that the expectation was that the equipment would only run until the kitchen closed. In addition, Environmental Health had no concerns about the noise; due to the first floor flat positioning between the extraction and the neighbour, as well as the separation for 63 High Street was similar to that for 65a High Street, which was referenced in the Noise Assessment Report. Cllr Downey then asked if “night” was therefore being defined as “after 11pm”, and the Officer confirmed that this was the case.

The Chairman then opened the debate. Cllr Huffer stated that she was satisfied that the premises could not operate as a takeaway business and she therefore proposed that the application be approved with revised opening hours as suggested by the agent for weekday nights. Cllr Stubbs seconded the motion and added that she considered the owner to be behaving responsibly by adding the ducting system that should alleviate concerns regarding odour. Cllr Ambrose Smith concurred and suggested that installation of the ducting during construction of the flat made sense, even if it was not initially used. Cllr Hunt also agreed with the merits of installing the ducting and highlighted the importance of communities remaining viable with good amenities.

Cllr Wilson disagreed and stated that he saw no reason to add to the previously-approved flat and existing business permissions for the premises. Cllr Jones

expressed his agreement with the merits of the ducting, and with Cllr Hunt's comment regarding the importance of viability, but he also shared the concerns that had been raised regarding the extended opening hours and the parking issues in the area. Cllr Downey stated his inclination to give more options to future occupants of the premises but had reservations about the increased opening hours. He also reiterated his dissatisfaction with the adjoining property not having been referenced in the Noise Assessment Report.

Cllr Trapp stated that he remained open-minded and had hoped for more guidance from the debate.

It was resolved, with 7 votes in favour, 2 votes against, and 2 abstentions:

That planning application ref 21/01178/FUL be APPROVED subject to the recommended conditions detailed in Appendix 1 of the Officer's report with a revision to condition 6 such that the permitted opening hours would be 12:00-21:45 Sunday to Thursday and 12:00-23:00 Friday to Saturday.

## **50. PLANNING PERFORMANCE REPORT – SEPTEMBER 2021**

Barbara Greengrass, Planning Team Leader, presented a report (W92, previously circulated) summarising the performance of the Planning Department in September 2021. She highlighted that the number of applications received remained higher than in previous years, and drew Members' attention to the five appeals that had been received and one appeal that had been dismissed. Regarding the two upcoming hearing dates, she informed Members that the appeal for 19/00717/OUM (Broad Piece, Soham) would be heard as a five-day public enquiry. In response to a question from Cllr Austen, who had been contacted by a member of the public, she confirmed that the appeal hearing for Hurst Farm, West Road, Ely (20/00641/FUL) would take place on 9<sup>th</sup> November 2021 as a remote hearing. A seven-day public enquiry had also been scheduled in January 2022 for a proposed care home in Bottisham

The Chairman informed Members that the Planning Department had been under intense pressure during recent months due to the implications of COVID, staff illness, and two unfilled vacancies. He reminded Members that, although call-in was an important part of the democratic process, every application brought to Committee increased the stress on the staff and the cost to the Council so careful consideration should be given to any potential call-ins. He thanked Officers for their hard work.

It was resolved:

That the Planning Performance Report for September 2021 be noted.

*The meeting concluded at 4:41pm.*