

TITLE: 24/00510/VARM

Committee: Planning Committee

Date: 15/01/2025

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Report No: Z119

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Site Address: Land North of Cam Drive Ely Cambridgeshire

Proposal: To Vary Conditions 3 (Development Specification, Plans & Documents), 4 (Site-wide Phasing Plan), 51 (Flexible Dwellings), 65 (Business B1 Use), 66 (Hours of Opening (A3,A4, A5 uses)) and 67 (Sub-division/amalgamation of Uses) of previously approved 13/00785/ESO for Residential led development of up to 1,200 homes with associated employment and community uses (including care home or extra care home). Supporting infrastructure, and open space/landscaping on land to the west of Lynn Road in Ely

Applicant: Endurance Estates

Parish: Ely

Ward: Ely North

Ward Councillor/s: Chika Akinwale
Alison Whelan

Date Received: 17 May 2024

Expiry Date: 24 January 2025

1.0 RECOMMENDATION

1.1 Members are recommended to REFUSE the application for the following reasons:

- 1 Insufficient evidence and justification has been received regarding the loss of community facilities within the development, and it has not been demonstrated that the proposed alternative uses would provide greater benefits to the settlement or community, contrary to policy COM3 of the East Cambridgeshire Local Plan 2023 (as amended).

2.0 SUMMARY OF APPLICATION

2.1 The application seeks to make alterations to the Development Specification previously approved under application 13/00785/ESO. A summary of the changes are as follows:

- Remove Public House/ Restaurant.
- Smaller Work Hub within Community Building 400sqm (previously separate units with total floorspace 1080sqm).
- Increase of retail units from 4 to 5, with same floorspace as previous.
- Amendment to use classes for retail element to include Sui Generis for wine bar/drinking establishment.
- Removal of micro library from development specification.
- Removal of purpose built live/work units.
- Increase in building height parameters for south-eastern corner of mixed-use development by 0.5 storeys (would now read 'up to 3 storeys').
- Regularise use classes listed due to changes in use classes legislation.
- Estimated jobs created has reduced from 250 to 178.
- Changes to wording of conditions 3, 4, 51, 65, 66, 67 to reflect the above.

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/>.

3.0 PLANNING HISTORY

3.1 13/00785/ESO

Residential led development of up to 1,200 homes with associated employment and community uses (including care home or extra care home). Supporting infrastructure, and open space/landscaping on land to the west of Lynn Road in Ely

Approved

26 November 2014

4.0 THE SITE AND ITS ENVIRONMENT

4.1 The site is located to the northern fringes of the City of Ely and is covered by the North Ely allocation site within the East Cambridgeshire Local Plan 2015 (as amended). Elements of the North Ely development are at various stages with some areas awaiting reserved matters applications, some areas complete and occupied, and some areas under construction. The proposed alterations relate to the Cam Drive Local Centre which is positioned off Cam Drive, at the most southern portion of the allocation.

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.

Parish - 20 August 2024

The City of Ely Council has serious concerns regarding the reduction in community space, particularly leisure areas. Members felt that the application differs too far from facilities that were originally planned.

Ward Councillors - No Comments Received

Local Highways Authority - 21 August 2024

I have no comments or recommendations to provide, on the application listed above, following the additional information provided.

Environmental Health - 29 May 2024

I have read the Justification Statement and have no comments to make at this time.

Lead Local Flood Authority - 17 June 2024

The application for the variation of conditions does not appear to have any surface water flood risk or drainage implications therefore we have no comments to make.

Sport England - 11 June 2024

Sport England initially commented the following on the full planning application (referenced 13/00785/ESO) -

'The proposal includes community playing fields and a multi-use games area totalling 1.94ha. The adopted standard should be 4.04ha. Whilst overall levels of open space meet policy requirements, outdoor sport provision falls below the minimum standard and we therefore Object to the proposals. We accept that it may be preferable to meet provision elsewhere in the city through enhancements of other schemes, but this cannot be guaranteed. Improved facilities are needed for hockey, cricket, football. Should planning permission be granted we request conditions to ensure new playing fields are constructed to a suitable standard, with an appropriate ground condition assessment, retention of the facilities for outdoor sport only, and a management and maintenance scheme. Development of this scale will create demand for indoor sports, such as swimming pools and sports halls. We note the application proposes this be met 'off-site'. We agree on-site provision is not justified but an appropriate sum, in lieu, for provision elsewhere, should be made by the developer.'

Sport England then commented the following on the second round of consultation:

'We originally objected to the lack of outdoor sport provision and the amendments do not address this issue and therefore our original comments stand.'

The proposed variations to conditions 3, 4, 51, 65, 66 and 67 do not change the points previously expressed by Sport England regarding the initial planning application. Additionally, the planning conditions related to the sports ground, pitch, and MUGA (conditions 47 and 64) remain unaffected. Consequently, Sport England do not have any comments on this variation of condition application.

If this application is to be presented to a Planning Committee, we would like to be notified in advance of the publication of any committee agenda(s), report(s) and

committee date(s). Please notify Sport England of the outcome of the planning application

Waste Strategy (ECDC) - 15 July 2024

o East Cambs District Council will not enter private property to collect waste or recycling, therefore it would be the responsibility of the owners/residents to take any sacks/bins to the public highway boundary on the relevant collection day and this should be made clear to any prospective purchasers in advance, this is especially the case where bins would need to be moved over long distances; the RECAP Waste Management Design Guide defines the maximum distance a resident should have to take a wheeled bin to the collection point as 30 metres (assuming a level smooth surface).

o With reference to the waste strategy previously submitted, please notice that the service will undergo significant changes: the introduction of a black bin for refuse waste and separate food waste collections by March 2026 (Simpler Recycling reforms); adequate bin storage and bin collection points will need to be provided to reflect this.

o Under Section 46 of The Environmental Protection Act 1990, East Cambridgeshire District Council as a Waste Collection Authority is permitted to make a charge for the provision (delivery and administration) of waste collection receptacles, this power being re-enforced in the Local Government Acts of 1972, 2000, and 2003, as well as the Localism Act of 2011.

o Each new property requires a set of receptacles; the contribution is currently £60.50 per set. We would recommend the developer made the contribution on behalf of the residents. Please note that the bins remain the property of East Cambridgeshire District Council.

o Payment must be made in advance of bins being delivered; East Cambs District Council Account Number 43135897, Sort Code 52-41-19, reference should be the planning application number followed by (bins) i.e. 15/012345/FUL (bins) a separate e-mail should also be sent to waste@eastcambs.gov.uk detailing the payment amount and the planning reference number.

Anglian Water Services Ltd - 28 May 2024

The application is not related to drainage therefore we have no comments to make. Please do not hesitate to consult us for drainage related matters

Cambridgeshire Fire And Rescue Service - 19 June 2024

Should the Planning Authority be minded to grant approval, the Fire Authority would ask that adequate provision be made for fire hydrants, which may be by way of Section 106 agreement or a planning condition.

Design Out Crime Officers - 11 June 2024

Thank you for the opportunity to comment on this application. I have viewed the documents in relation to crime, disorder, and the fear of crime.

I have no comment or objection to the above variation of conditions 3 (Development Specification, Plans & Documents), 4 (Site-wide Phasing Plan), 51 (Flexible

Dwellings), 65 (Business B1 Use), 66 (Hours of Opening (A3,A4, A5 uses)) and 67 (Sub-division/amalgamation of Uses).

Ramblers Association South - 28 May 2024

This point has been emphasised on numerous occasions during the twelve years or so that I have been in post. For ease of reference, 'my parishes' are Ashley, Brinkley, Burrough Green, Cheveley, Chippenham, Dullingham, Kennett, Kirtling, Snailwell, Stetchworth, Westley Waterless and Woodditton.

I can do no better than to suggest that you consult the Cambridge Group of Ramblers on relevant planning applications elsewhere in your District

County Highways Transport Team - No Comments Received

Strategic Planning - No Comments Received

Economic Development - No Comments Received

Infrastructure & Strategic Housing Manager - ECDC - No Comments Received

Consultee For Other Wards In Parish - No Comments Received

City Of Ely Allotment Association - No Comments Received

Cambridgeshire County Council Education - No Comments Received

Minerals And Waste Development Control Team - No Comments Received

Head Of Strategic Planning - No Comments Received

Planning Casework Unit - No Comments Received

Community & Leisure Services - No Comments Received

Cambridgeshire Archaeology - No Comments Received

Network Rail - No Comments Received

CCC New Communities - 24 May 2024

ECDC Trees Team - No Comments Received

Conservation Officer - No Comments Received

Strategic Planning - No Comments Received

Housing Section - No Comments Received

Secretary, Cambridgeshire Local Access Forum - No Comments Received

Environment Agency - No Comments Received

The Ely Group Of Internal Drainage Board - No Comments Received

Natural England - No Comments Received

Asset Information Definitive Map Team - No Comments Received

Cambs Wildlife Trust - No Comments Received

Technical Officer Access - No Comments Received

C P R E - No Comments Received

5.2 A site notice was displayed near the site on 27th June 2024 and a press advert was published in the Cambridge Evening News on 6 June 2024.

5.3 Neighbours – 316 neighbouring properties were notified and responses from two properties have been received. The responses are summarised below. A full copy of the responses are available on the Council's website.

- Several properties had the potential of a pub included in their valuation.
- The alternative to the pub is not appropriate to the area – not enough amenities in the local area for an older person (buses reducing in frequency, no seats/benches).
- The loss of the pub would reduce the amount of parking which is already a concern during the school run.
- The reasons cited for no market interest for a pub are too close to the pandemic to be taken without a pinch of salt.
- The survey cited in support of the wine bar was asking some very leading questions – it should be available for review.
- The change in provision of floor space for a work hub is another loss of an important amenity.
- I welcome the inclusion of some retail outlets but its unclear why they are positioned in two places.
- It seems we need another old folk's home, so this seems uncontentious.
- The proposed playground next to Lynn Road seems an odd decision.
- An inadequate sports field would be a serious lack of amenity for the community.
- Concern that the development only allows for 10% of renewable energy across the site.
- There seems to be some loss of green space.
- Pleased to see that provision would be made for cycle and pathways to connect the whole development.

6.0 THE PLANNING POLICY CONTEXT

- 6.1 East Cambridgeshire Local Plan 2015 (as amended 2023) (the 'Local Plan')
- | | |
|----------|--|
| 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
HOU 3	Affordable housing provision
HOU 6	Residential care accommodation
EMP 1	Retention of existing employment sites and allocations
EMP 7	Tourist facilities and visitor attractions
ENV 1	Landscape and settlement character
ENV 2	Design
ENV 4	Energy and water efficiency and renewable energy in construction
ENV 7	Biodiversity and geology
ENV 8	Flood risk
ENV 9	Pollution
ENV 12	Listed Buildings
ENV 14	Sites of archaeological interest
COM 1	Location of retail and town centre uses
COM 3	Retaining community facilities
COM 4	New community facilities
COM 5	Strategic green infrastructure
COM 7	Transport impact
COM 8	Parking provision
ELY 1	Housing-led sustainable urban extension, North Ely

- 6.2 Supplementary Planning Documents
 - North Ely SPD
 - Design Guide
 - Developer Contributions and Planning Obligations
 - Contaminated Land - Guidance on submitted Planning Application on land that may be contaminated
 - Flood and Water

- 6.3 National Planning Policy Framework (December 2024)
 - 2 Achieving sustainable development
 - 4 Decision-making
 - 5 Delivering a sufficient supply of homes
 - 6 Building a strong competitive economy
 - 7 Ensuring the vitality of town centres
 - 8 Promoting healthy and safe communities
 - 9 Promoting sustainable transport
 - 11 Making effective use of land
 - 12 Achieving well-designed and beautiful places
 - 14 Meeting the challenge of climate change, flooding and coastal change
 - 15 Conserving and enhancing the natural environment
 - 16 Conserving & enhancing the historic environment

- 6.4 Planning Practice Guidance

7.0 **PLANNING COMMENTS**

7.1 Summary of Proposed Changes to Development Specification

- Remove Public House/ Restaurant.
- Smaller Work Hub within Community Building 400sqm (previously separate units with total floorspace 1080sqm).
- Increase of retail units from 4 to 5, with same floorspace as previous.
- Amendment to use classes for retail element to include Sui Generis for wine bar/drinking establishment.
- Removal of micro library from development specification.
- Removal of purpose built live/work units.
- Increase in building height parameters for south-eastern corner of mixed use development by 0.5 storeys (would now read 'up to 3 storeys').
- Regularise use classes listed due to changes in use classes legislation.
- Estimated jobs created has reduced from 250 to 178.
- Changes to wording of conditions 3, 4, 51, 65, 66, 67 to reflect the above.

7.2 The local centres should provide for community facilities under the ELY1 policy of the Local Plan. As a strategic site, the services and facilities required within the local centres are important in catering for the needs of residents occupying the 1200 approved homes.

7.3 The proposed increase in retail units, albeit with the same previously approved floorspace, is not considered to significantly alter the proposals or dilute the value of the community facilities, nor is the alteration to include a Sui Generis use for a drinking establishment. The retail units would have approximately 112sqm each (560sqm total) and are considered to be useable floorspaces. The addition of Sui Generis (drinking establishment) in the retail units is also considered to be acceptable as this would provide a variety of uses which would benefit the community. The increase in the building height parameters for the south-eastern corner of the site by half a storey is not considered to be detrimental to the purpose of the local centre. The removal of the live/work units is not considered to be detrimental to the development as a whole. Cambridgeshire County Council have not objected to the removal of the micro-library as the library service have recognised that it is no longer deliverable. They have however noted that the removal of the micro-library will place additional pressure on library resources and have requested that in order to mitigate this they would seek a contribution towards Ely Library based on £15 per head of new population to provide additional books, resources and equipment. Should members be minded to approve the application, there would be expectation that the developers would enter into Deed Of Variation to the S106 agreement to make provision for increased demand on library services which would have previously been mitigated by the micro-library provision.

7.4 The previously approved public house / restaurant would have a floorspace of approximately 700sqm and provide a social meeting place for local people. Under the proposed variation, the public house / restaurant would be removed from the development specification and replaced with retirement homes (Use Class C3). Paragraph 7.4.2 of the Local Plan seeks to prevent the loss of services and facilities unless there are exceptional reasons to justify it. Paragraph 7.4.3 of the Local Plan

sets out that in the case of community facilities being proposed to change use, applicants need to demonstrate that the facility is neither viable nor likely to become viable for that use or an alternative community use. It also sets out that applicants will need to provide evidence that premises have been marketed locally and nationally for 12 months for the current use or an alternative local commercial or community facility, free of ties and restrictive covenants, at a price agreed with the Council following an independent professional valuation - and that there has been no interest in continued use as a community facility. Applicants should also provide evidence that all reasonable efforts have been made to preserve the facility including all diversification options.

7.5 The applicant has submitted a Justification Report alongside the application submission and has provided the results of their public engagement questionnaire. The justification report sets out that 9 offers were received for the local centre at Cam Drive but gives no detail about what those offers were or why they were not progressed. The report sets out that only 1 offer was received for the whole local centre site, but provides no justification for why only an offer for the whole site has been considered. The application submitted includes no marketing information or reports on the results of marketing activities. The public engagement questionnaire that was provided to the Council following submission of the application consists of a public engagement flyer, a blank questionnaire form, and a Microsoft Word document with responses input. The questionnaire sent out sets out that the local centre site is intended to provide:

- Community Hub
- 10,000sqft food store with 3 ancillary retail units
- Childrens day nursery
- Retirement Living facility for the over 55s
- Parking, access and landscaping

7.6 It is noted that the questionnaire sent out makes no reference to the previously approved public house/ restaurant or whether its replacement would be supported or objected to by the local community.

7.7 The pre-amble to policy COM3: Retaining Community Facilities specifies in paragraph 7.4.1 that public houses are considered community facilities. It is noted that the application proposes the loss of a public house / restaurant and the inclusion of a nursery facility, which could be considered an alternative community facility. However, policy COM3 is specific in setting out that proposals that lead to the loss of a community facility will only be permitted if it would involve the provision of an alternative community facility which brings demonstrable greater benefits to the settlement or neighbourhood.

7.8 While it is acknowledged that a nursery would provide an alternative community facility, the applicant has failed to demonstrate that this change would provide 'demonstrable greater benefits' as required by policy COM3. In addition to the inclusion of a nursery under the current proposals, retirement living accommodation is also proposed which falls under Use Class C3 for residential dwellings. It is noted that this type of accommodation is already provided for within the specification for the Lynn Road local centre. Furthermore, the development specification does not specify a proposed floorspace or number of units that could come forward at a reserved

matters stage. It is considered that the previously approved public house / restaurant provided a social meeting place for a wide range of the local community and helped to create a balance of uses within the local centre. The proposed nursery would provide an educational/childcare service, but would only cater to a specific portion of the local community. While a nursery facility would not be an unacceptable use in the area, its introduction, as well as the introduction of residential dwellings in the form of retirement living, should not compromise a balanced provision of community facilities.

7.9 Planning Balance

- 7.10 On balance, there are a number of changes proposed which are not considered to impact the North Ely development such as the increase in retail units with the same previously approved floorspace, the removal of the live/work units, the addition of Sui Generis (drinking establishment) in the retail units, and the increase in building height parameters. However, it is considered that the proposed amendment to remove the public house / restaurant from the scheme, and replacement with a nursery and retirement living has not been sufficiently justified. The applicant has been provided the opportunity to submit more robust justification and evidence of efforts to deliver the approved uses, however no further information has come forward, such as marketing information, sales particulars, information on any reductions in asking price, details of interest enquiries, details of offers received and whether these were pursued.

8.0 **COSTS**

- 8.1 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.
- 8.2 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.
- 8.3 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.

9.0 **APPENDICES**

Background Documents

24/00510/VARM

13/00785/ESO

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>

