

## SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

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**REPORT TO:** Planning Committee 7<sup>th</sup> April 2010  
**AUTHOR/S:** Executive Director / (Operational Services) / Corporate Manager  
Planning and Sustainable Communities

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### S/1421/09/F, S/1422/09/F, S/1423/09/F, S/1424/09/F and S/0109/10/F – HISTON AND IMPINGTON

- A. Variations to Condition PC8 of the Cambridgeshire Guided Bus Order (Application ref. S/1421/09/F, S/1422/09/F, S/1423/09/F, S/1424/09/F) and  
B. Erection of Two Sections of Noise Barrier (Application ref. S/109/10/F)**

**for Cambridgeshire County Council**

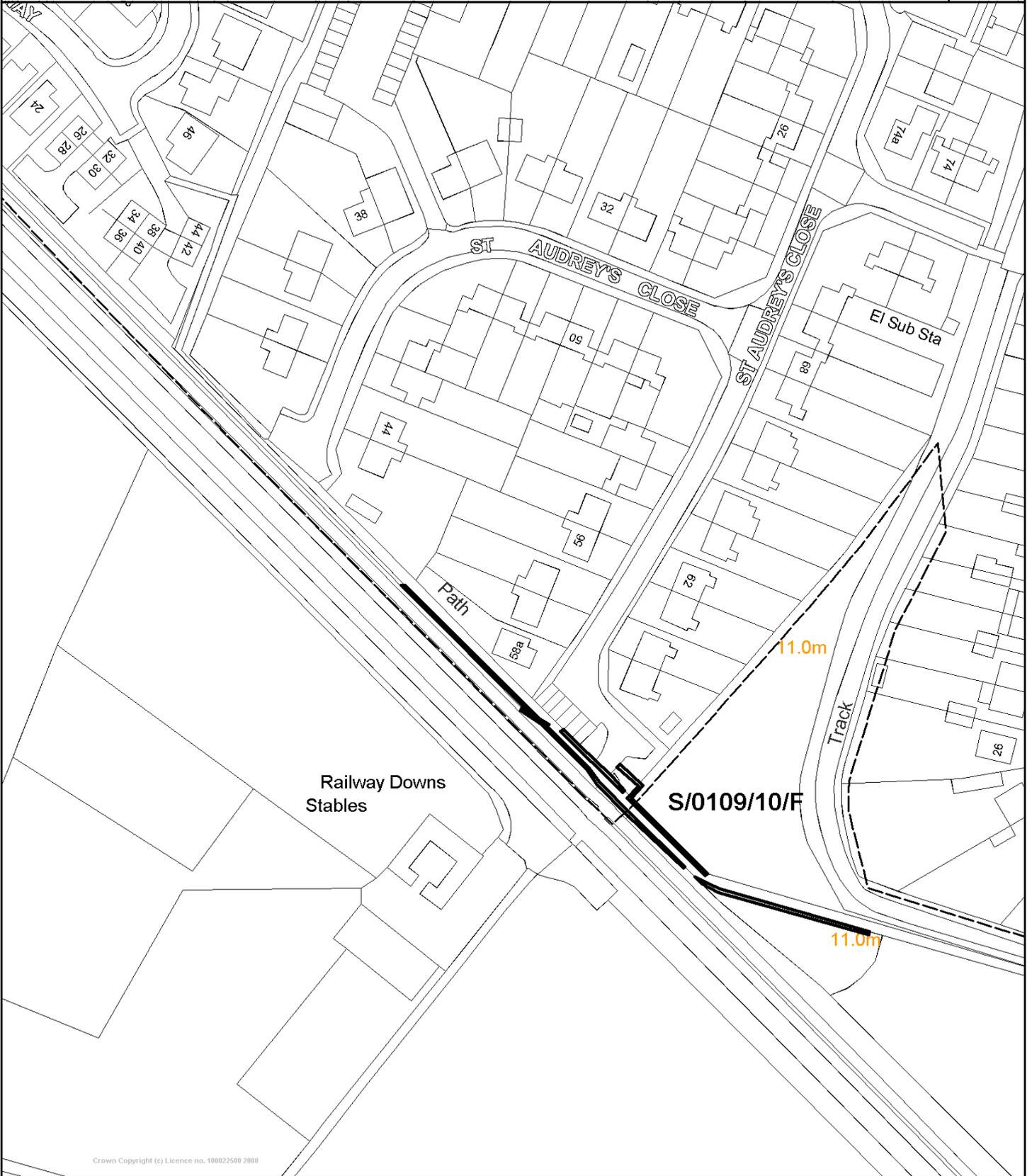
**Recommendation: Refuse/Delegated Approval**  
**Date for Determination: A. 10<sup>th</sup> February 2010 and B. 29<sup>th</sup> March 2010 (Majors)**

#### **Notes:**

**This Application has been reported to the Planning Committee for determination because the delegated powers to discharge condition 8 given on the 10<sup>th</sup> June 2009 was to discharge Condition 8 subject to a noise barrier being implemented but fresh applications have been received for variations of this condition not discharge.**

#### **Site and Proposals**

1. At St Audreys Close nos. 58a and 59 side onto the Busway. No. 58a is a modern dwelling built in the past five years. At its closest it is within approximately 3m of the line of development to the guided busway. It is separated by a small terraced area of garden adjacent to a public footpath connecting Melvin Way and St Audreys Close that runs between that property and the busway to the southwest of it. It has windows in its southwestern elevation facing the busway that serve its living room, dining room, kitchen and first floor bedrooms.
2. Between nos. 58a and 59 a block of garages and a turning head terminates the end of St Audreys Close. This turning head also provides access to a crossing that has served stables on the southwestern side of the busway and that will continue to provide a public right of way.
3. No. 59 St Audreys Close is an older property on the eastern side of St Audreys Close. It is separated from the guided busway by a turning head at the end of St Audreys Close. At its closest point the southern elevation is approximately 18.5 metres from the busway. It also has side windows facing the busway.
4. To the south east of St Audreys Close is a wooded area and to the west and south of Manor Park beyond. This area adjoins the busway to the southwest.
5. There is no noticeable difference in ground level between these dwellings and the Busway.

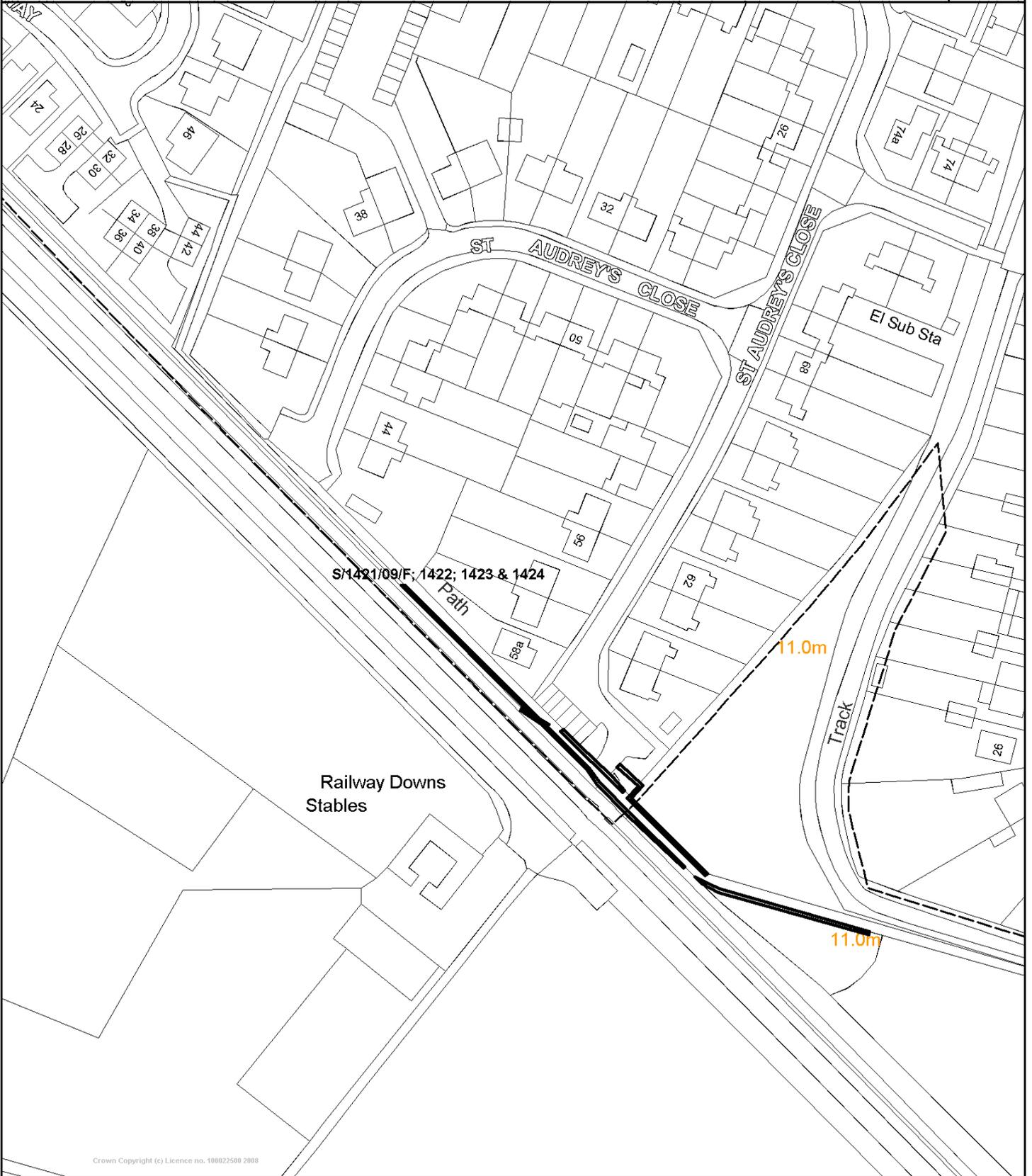


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April 2010 Committee



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April 2010 Committee

***S/1422/09/F and S/1424/09/F***

6. Planning application ref. **S/1422/09/F**, received on 11<sup>th</sup> November 2009, seeks:  
  
**'Variation of Condition PC8 of the Cambridgeshire Guided Busway Order to allow for the reduction in length of the noise barrier required by the Deemed Planning Permission opposite to the flank wall of 59 St Audreys Close, Histon between points marked B and C on the attached application plans, reference 5083393/004A'.**
7. Planning application ref. **S/1424/09/F**, received on 11<sup>th</sup> November 2009, seeks:  
  
**'Variation of Condition PC8 of the Cambridgeshire Guided Busway Order to allow for the reduction in length of the noise barrier required by the Deemed Planning Permission opposite to the flank wall of 59 St Audreys Close, Histon between points marked A and B on the application plan, reference 5083393/004A for a period expiring on the earlier of, (a) 24 months from the date of the variation(s), or, (b) dismissal at appeal of application(s) for removal of a permanent noise barrier between points B and C'.**
8. The first variations are for the erection of a noise barrier measuring 4 metres in height along the boundary of the Guideway at the rear of no. 58a St Audreys Close and the removal of a permanent barrier between point B and C on application dwg. no. 5083393/004A. One application for the first variation (ref. S/1422/09/F) is not time limited. The second application relating to the first variation (ref. S/1424/09/F) is limited such that the variation of the condition will only apply for a period expiring on the earlier of the (A) 24 months from the date from variation or (B) dismissal at appeal of an application for permanent removal of the barrier between points B and C.
9. The reasoning behind inviting a variation which is time limited is to facilitate the busway becoming operational but to ensure that the permanent arrangements proposed by the Guided Busway promoters are either endorsed or rejected by the Secretary of State by way of appeal proceedings, bearing in mind that when the earlier Inquiry took place in September 2004 the property at 58a St Audreys Close had not been built and the Guided Busway promoters had failed to address sight line issues for the public footpath crossing the guided busway at the end of St Audreys Close.

***S/1421/09/F and S/1423/09/F***

10. Planning application ref. **S/1421/09/F**, received on 11<sup>th</sup> November 2009, seeks:  
  
**'Variation of Condition PC8 of the Cambridgeshire Guided Busway Order to allow for the reduction in length of the noise barrier required by the Deemed Planning Permission opposite to the flank wall of 59 St Audreys Close, Histon between the points marked B and C on the application plan, reference 5083393/003A, and the reduction in height of the noise barrier adjacent to part of 58a St Audreys Close between points marked A and B on the application plan for a period expiring on the earlier of, (a) 24 months from the date of the variation(s) or, (b) dismissal at appeal of application(s) for removal of a permanent noise barrier between points B and C and for reduction in height of a permanent noise barrier between points A and B'.**
11. Planning application ref. **S/1423/09/F**, received on 11<sup>th</sup> November 2009, seeks:

**'Variation of Condition PC8 of the Cambridgeshire Guided Busway Order to allow for the reduction in length of the noise barrier required by the Deemed Planning Permission opposite to the flank wall of 59 St Audreys Close, Histon between points marked B and C on the application plan, reference 5083393/003A and the reduction in height of the noise barrier adjacent to part of 58a St Audrey's Close between points marked A and B on the application plan**

12. The second variations are for the erection of a noise barrier measuring 1.5 metres in height along the boundary of the Guideway at the rear of no. 58 St Audreys Close and the removal of a permanent barrier between point B and C on application dwg. no. 5083393/004A. One application relating to the second variation (S/1423/09/F) is not time limited. The second application (S/1421/09/F) in relation to the second variation is limited such that the variation of the condition will only apply for a period expiring on the earlier of the (A) 24 months from the date from variation or (B) dismissal at appeal of an application for permanent removal.
13. The reasoning behind inviting a variation which is time limited is to facilitate the busway becoming operational but to ensure that the permanent arrangements proposed by the Guided Busway promoters are either endorsed or rejected by the Secretary of State by way of appeal proceedings, bearing in mind that when the earlier Inquiry took place in September 2004 the property at 58a St Audreys Close had not been built and the Guided Busway promoters had failed to address sight line issues for the public footpath crossing the guided busway at the end of St Audreys Close.

***S/0109/10/F***

14. This full planning application, ref. S/0109/10/F, received on 1<sup>st</sup> February 2010 seeks permission for:  
**'Erection of 2 sections of noise barrier'.**
15. The application for the 1.5 metre high barrier is to reduce the impact of the higher barrier in proximity to the property at 58a St Audreys Close. It is believed that this height of barrier is acceptable to the owner/occupier of that property but this height of barrier does not offer the noise protection to meet the criteria set out in the Inspector's decision letter. By limiting the life of the approval the Secretary of State will decide to either approve or refuse a barrier at this reduced height.
16. The 4m high barrier was originally proposed by the Busway Promoters in anticipation that it would offer noise protection to meet the Inspector's criteria, however work done by acoustic engineers has shown that a barrier even at 4 metres high does not offer the protection recommended by the Inspector.
17. The original planning permission granted by the Secretary of State was limited to a specific red line area and because of the sight line issue it is not possible for safety reasons to have a barrier between points B and C. Discussion with the guided busway promoters has however resulted in them making a fresh planning application (ref. S/0109/10/F) outside the original red line, which will deliver a barrier offering noise protection at a level recommended by the Inspector. Such barrier however extends beyond points B-C into a woodland area adjacent to the guided busway. The promoters have confirmed their willingness to enter into a unilateral undertaking whereby they would not erect that part of the barrier affecting the wooded area unless South Cambridgeshire District Council requests them to do so or the Secretary of State requires them to do so when determining the appeal applications. Officers feel

that this will offer the greatest prospect of ensuring that no trees are cut down / lost unnecessarily but if the residents at 59 St Audreys Close are unduly affected by noise from the guided busway works which will involve the loss of some trees may be necessary.

### **Planning History**

18. On 21<sup>st</sup> December 2005, the Secretary of State for Transport directed that planning permission be deemed to be granted for the development included in the Cambridgeshire Guided Busway Order. Condition 8 of the ten conditions read:

#### **(Condition 8) Operational Noise**

The scheduled works listed below shall be constructed to incorporate the following elements, each of which shall, in relation to the work in question, be completed before that work is brought into operation and then maintained thereafter whilst the work remains in operation:

- (i) Work No.8 A noise barrier along the north-eastern edge of the guideway from Girton Crossing to approximately chainage 16+000 at the rear of the properties in Pease Way, Melvin Way and St Audreys Close;
- (ii) Work No.8 A noise barrier along the southern edge of the guideway from approximately chainage 17+000 to chainage 17+500 at the rear of properties in Villa Way.

**Reason: to mitigate potential for increased noise intrusion in the interests of residential amenity.**

### **Planning Policy**

19. **Circular 11/1995 - The Use of Conditions in Planning Permissions:** Advises that conditions should be necessary, relevant to planning, relevant to the development permitted, enforceable, precise and reasonable in all other respects.
20. **Circular 05/2005 - Planning Obligations:** Advises that planning obligations must be relevant to planning, necessary, directly related to the proposed development, fairly and reasonably related in scale and kind and reasonable in all other respect.
21. **East of England Plan 2008:**  
SS1 Achieving Sustainable Development  
ENV7 Quality of the Built Environment  
CSR1 Strategy for the Sub-Region  
CSR4 Transport Infrastructure
22. **South Cambridgeshire Core Strategy DPD 2007:**  
ST/4 Rural Centres
23. **South Cambridgeshire Development Control Policies DPD 2007:**  
DP/1 Sustainable Development  
DP/2 Design of New Development  
DP/3 Development Criteria  
DP/7 Development Frameworks  
NE/6 Biodiversity  
NE/15 Noise Pollution

24. **South Cambridgeshire Site Specific Policies DPD Submission Draft 2006:**  
SP/16 Cambridgeshire Guided Busway
25. **South Cambridgeshire Trees and Development Sites SPD 2009**
26. **South Cambridgeshire Biodiversity SPD 2009**
27. **South Cambridgeshire District Design Guide: High Quality and Sustainable Development in South Cambridgeshire SPD 2010**

### **Consultation**

28. At the time of writing a consultation period on the proposed planning conditions, as amended, are on-going and are due to expire on Monday 5<sup>th</sup> April 2010. Comments on the proposals as submitted on the 11<sup>th</sup> of November in relation to the variations of planning conditions are set out below.

29. **Histon Parish Council** objects commenting:  
"Histon Planning Committee **Recommend Refusal on all 4 applications** as Committee strongly feel another remedy should be sought to solve the problem of a safe footpath, Condition PC8 being such a fundamental part of the Inquiry. The Planning Committee agrees a footpath should be provided but not by this reduction in length of the nose barrier. After being advised by SCDC that they are actively seeking alternative remedies to this, we ask that **temporary permission should not be granted until a solution is found**".

It is thought the new application referred to in para 17 above offers a solution and comments from the Parish Council are awaited.

30. In relation to the applications for variation of planning condition the **Countryside Access Team (Cambridgeshire County Council)** has written:  
"As noted in the Design and Access Statements, several public rights of way are affected by this section of the Cambridgeshire Guided Busway (Public Footpath Nos. 3, 4 and 17), and Bridleway No. 4, Histon. The effect on these rights of way was not adequately considered during the initial consultation on the Guided Busway; in particular, public access along Footpath NO. 4 was obstructed by the noise barrier running between points B and C (Drawing 5083393/004). The Countryside Access Team therefore welcomes the proposed removal of this section of the noise barrier, and the resultant improved visibility splay for footpath users crossing the Guided Busway at this point. The proposed reduction in height of the noise barrier between points A and B is also welcome, as the right of way running along the north side of the old railway line (Public Footpath No. 17, Histon) will feel less enclosed and more inviting to path users. In this regard, we would also highlight the fact that members of the public have a right to pass and re-pass along the full width of Public Footpath No. 17 and we would therefore not want the noise barrier or any associated supports to encroach upon the width of the footpath".
31. The Council's **Planning Lawyer** has provided 2 sets of comments on the applications for variation of planning condition advising:
  - (i) "I recommend each of the permanent applications are refused on the basis that they propose an area of no barrier which is contrary to condition 8 of the Planning Permission for the Guided Busway.

In relation to the temporary permissions applied for, I recommend that irrespective of any other comments back, these are deferred until the Guided Busway Team are in a position to put forward an alternative scheme which (i) limits the area of no barrier to the smallest possible area to preserve necessary visibility splays and the access point for the public footpath itself such that a diversion order or stopping –up order is not required and (ii) provides barrier heights that offer maximum noise protection to the houses in St Audreys Close”.

- (ii) The recommendation that each of the permanent applications are refused still stands. In relation to the temporary permissions it is recommended (subject to 58a St Audreys Close not having full noise protection but wanting a lower barrier in any event) that these temporary permissions are granted as an alternative scheme has come forward which meets the previous concerns.

32. The Council's **Land Officer** has no objections to the proposal.

33. In relation to planning application S/0109/10/F it has commented: “Committee **RECOMMEND APPROVAL** but request that full checks be made to ensure that a 3m high fence is necessary at points”.

34. In relation to S/0109/10/F the **Local Highway Authority** has commented: “no significant adverse effect upon the Public Highway should result from this proposal, should it gain benefit of Planning Permission”.

35. In relation to application ref. S/0109/10/F the **Landscape Design Officer** has commented on Arup acoustics Dwg SAC05 01 and Atkins Arboricultural Implications document:

- 1) As previously commented, there is a need for some greening of the barriers at this point without interfering with sight lines. Suggest supported climbing plants to the northern half of the scheme where there is little space for hedge planting etc.
- 2) Question whether the southern section of the barrier – running along the edge of the woodland – is required with the properties screened being approximately 30-70m distant. This section of barrier would also require the removal of numbers of substantial trees - mainly Oak and Ash.
- 3) If the scheme were to go ahead as proposed there would need to be additional planting proposals to mitigate for the lost trees and visible green edge to the woodland.

36. In relation to S/0190/10/F the Council's **Ecology Officer** comments:

“Whilst I am not against the principle of screening for local residents I have particular concern at the impact upon the retained woodland which is considered to have nature conservation value within the local context (Atkins report 2010).

The Atkins report appears to have failed to consider the likely shading impact upon the woodland or to have considered any real enhancement of the wood (retaining cut logs is very minimal and is a cheap consequence of any necessary felling work).

The erection of a 3m high barrier running at least 70m along the southern boundary will cause a negative impact upon the wood as a consequence of direct shading. This

could be compensated for by undertaking suitable woodland management in retained parts of the wood followed by the planting of a shrub layer.

From memory, this wood contained a high proportion of elms. Some elm copses in South Cambs. (Longstanton) have been found to support nationally important invertebrates such as the Nationally Scarce and UK BAP Priority Species white spotted pinion moth (*Cosmia diffinis*).

Furthermore, I would question the effectiveness of section D, as it appears to be screening the wood more so than the actual properties of St Audreys Close, or the nearer Manor Park.

I would expect that this application should give a greater degree of regard to the local nature conservation value of the wood and propose suitable enhancement to the wood (which should be discussed in principle prior to the determination of the application). Simply blocking off the wood with a 3m barrier is not acceptable.

At present this application does not meet with the objectives of policy NE/6 biodiversity is so far that it does not provide any real enhancement. I would wish to place a holding objection to allow more appropriate means of enhancing the wood to be discussed, or the omission of barrier D.

David Hamilton has also commented that the barrier should utilise some form of green-wall construction so as to mitigate its landscape impact and to provide some form of ecological enhancement from another obtrusive feature. I support this view too".

### **Representations**

37. No representations have been received at the time of writing. An update will be provided if any are subsequently received, as the consultation period on the proposed planning conditions, as amended, is not due to expire until Monday 5<sup>th</sup> April 2010.

### **Planning Comments – Key Issues**

38. The key issues to consider in the determination of these applications are the impact of noise from the Guided Busway on residents of St Audreys Close, effect on public rights of way and landscaping and ecology.

### **Noise**

39. The Council's Environmental Health Officer has been asked to comment on the schemes proposed and an update will be provided. From the information available however it is clear that the variation of condition proposals will result in the Inspector's requirements in relation to noise attenuation for properties on St Audreys Close not being achieved. The options that involve permanently failing to meet this standard should be refused. The applicant then has the option to appeal those decisions, if made, Officers support the options that would allow the busway to operate temporarily while appeals are pursued. Should residents at St Audreys Close suffer unduly during that time from noise disturbance the Council can then require the alternative fence proposed under planning ref. S/0109/10/ to be erected to mitigate noise disturbance. A unilateral undertaking (S106 legal agreement) will be required to ensure this option remains available to the Council.

### **Public rights of way**

40. The County Council's Countryside Access team has confirmed that the proposals put forward improve the situation for users of the effected public rights of way.

### ***Landscaping and ecology***

41. The Landscape Design Officer's and Ecology Officer's comments are noted. Enhancement and mitigation of the impact upon the woodland could be secured by way of planning conditions if application S/0109/10/F is approved. Their comments will, notwithstanding be put to the developer for a response and an update will be provided.

### **Recommendations**

42. **S/1422/09/F** and **S/1424/09/F**, as submitted – **REFUSE**, for the following reason:
1. The proposed variation will leave a stretch of land with no noise barrier, which is contrary to condition 8 of the Planning Permission for the Guided Busway Order, and will result in harm to the amenities of occupiers of dwellings at St Audreys Close through noise disturbance.
43. **S/1421/09/F** and **S/1423/09/F** – **APPROVE**, as submitted, the variation to Condition PC8.
44. Grant delegated powers to **APPROVE** application ref. S/0109/10/F, subject to satisfactory resolution of the Landscape Design and Ecology Officers' concerns (including any additional necessary planning conditions), comments of the Environmental Health Officer, the prior completion of a unilateral undertaking (S106) and the following planning conditions:

### **Conditions**

1. **The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.**  
(Reason - To ensure that consideration of any future application for development in the area will not be prejudiced by permissions for development, which have not been acted upon.)
2. **The development hereby permitted shall be carried out in accordance with the following approved plans: 5083393/002 Rev B, CGB-DES-15400-D-1-1200, SAC05 Issue 1, 5083393/005 Rev B, Plan showing existing trees and proposed acoustic barrier, Tree constraints plan and Tree protection plan (Appendix B Figure 2 Rev A).**  
(Reason - To facilitate any future application to the Local Planning Authority under Section 73 of the Town and Country Planning Act 1990.)

**Background Papers:** the following background papers were used in the preparation of this report:

- Circular 11/1995 - The Use of Conditions in Planning Permissions
- Circular 05/2005 - Planning Obligations
- East of England Plan 2008
- South Cambridgeshire Core Strategy DPD 2007
- South Cambridgeshire Development Control Policies DPD 2007:
- South Cambridgeshire Site Specific Policies DPD 2010
- South Cambridgeshire Trees and Development Sites SPD 2009

- South Cambridgeshire Biodiversity SPD 2009
- South Cambridgeshire District Design Guide: High Quality and Sustainable Development in South Cambridgeshire SPD 2010
- Planning File Refs: S/1421/09/F, S/1422/09/F, S/1423/09/F, S/1414/09/F and S/0109/10/F
- Documents referred to in the report including appendices on the website only and reports to previous meetings

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