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Cambridge City Council

NORTH AREA COMMITTEE

SUPPLEMENTARY AGENDA

5 PLANNING AMENDMENT SHEET (*Pages 1 - 20*)

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NORTH AREA COMMITTEE MEETING (PLANNING ITEMS)

26th July 2012

Amendment/De-brief Sheet

PLANNING APPLICATIONS

CIRCULATION: First

ITEM: APPLICATION REF: **12/0428/CAC**

Location: Penny Ferry, 110 Water Street

Target Date: 29th May 2012

To Note:

Appendix A – Inspectors Decision **09/1200/FUL** is attached.

Further Representations

Riverside Area Residents Association (RARA)

- Since March there have been 2 important developments:
- The National Planning Policy Framework (NPPF) has been adopted.
- The Penny Ferry site is now part of a designated Conservation Area.
- The Penny Ferry building is an important surviving link to the past with social heritage significance. It therefore must be tested against para 128, 133 and 134 of the NPPF.
- No historic assessment of the site has been submitted, as required by NPPF para 128.
- Lack of viability has not been proved via “appropriate marketing”, as required by NPPF para 133.
- The Penny Ferry has exceptional advantages as a site for a public house. This would be the most appropriate use for this heritage asset, in line with NPPF para 126.
- Redevelopment does not confer ‘substantial public benefits’ as required by NPPF paras 133-134.
- The building sits harmoniously in its surroundings, prominently located in the Conservation Area.
- To summarise: The site is a heritage asset in line with NPPF para 126, which makes a positive contribution to the Conservation Area arising from its historic role and function as a public house, irrespective of aesthetic or architectural merit. Non-viability has not been proven, and no significant public benefits

arise from its loss. Demolition consent should thus be REFUSED, based on the requirements of NPPF paras 128, 132, 133 and 134.

Online Petition Update

A total of 530 people have supported the online petition.

Amendments To Text: No amendments.

Pre-Committee Amendments to Recommendation: No amendments.

DECISION:

CIRCULATION: First

ITEM: APPLICATION REF: **12/0604/FUL**

Location: 75 Histon Road

Target Date: 9th July 2012

To Note: Nothing

Amendments To Text: None

Pre-Committee Amendments to Recommendation: None

DECISION:

CIRCULATION: First

ITEM: APPLICATION REF: **12/0381/FUL**

Location: 19 Alpha Road

Target Date: 22nd May 2012

To Note:

1. Richard Lord, in the Housing Standards department, provided a list of licensed and unlicensed Houses in Multiple Occupation around Alpha Road. Copy of

email below and as Appendix:

there are 5 licensed properties in the local area -

- * 31 Alpha Rd
- * 85 Alpha Rd
- * 7 East Hertford St
- * The Lodge Hertford St
- * 2 Hertford St

And the following are the numbers of non-licensable properties in the local area -

Alpha Rd	3
East Hertford St	0
Hertford St	7
Carlyle Rd	6
Magrath Ave	1

2. Ben Walther, in the Environmental Health team, provided a detailed list of the recorded complaints of noise and nuisance from 19 Alpha Road. Details below:

Ref	Noise complaint	Appl	Task Desc	Date	Outcome	First Resp	Completed	Actions taken
WK/2011 17331	Loud music, voices and banging	CPEH	NGEN - Noise (General)	12/03/2012	SLET	14/03/2012 012 16:50	22/05/2012	14.3.12 Standard letters sent to complainant (inc diary sheets) and subjects informing of legislation + procedure. No visits to witness noise nuisance. 16.3.12 Landlady contacted and informed of complaint
WK/2012 52077	Noisy Party	CPEH	NOOH - Noise (Out of Hours Service)	14/06/2012	SLET	14/06/2012 012	11/07/2012	Complaint received via OOHN service at 00:02 hrs. LV and shouting from student premises out in garden. Comp advised warning letter could be sent or a visit at the time - visit declined. 20.6.12 - letter sent to subjects concerning noisy party and diary sheets sent to complainants

21.6.12 - tel call from
subject advising they
had put notes
through neighbours
doors apologising for
the noisy party

3. The occupier of 20 Alpha Road has asked that the attached email string be added to the amendment sheet in the interests of clarifying concerns about noise. I have removed email addresses and names of members of the public from this document, but not attempted to amend its formatting. I apologise if any lack of clarity results.

Amendments To Text:

Pre-Committee Amendments to Recommendation:

DECISION:

CIRCULATION: First

ITEM: APPLICATION REF: **12/0674/FUL**

Location: 74 Alex Wood Road

Target Date: 23rd July 2012

To Note:

Amendments To Text:

Pre-Committee Amendments to Recommendation:

DECISION:



Appeal Decision

Hearing held on 31 January 2012

Site visit made on the same day

by **Ian Radcliffe BSC (Hons) MCIEH DMS**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 March 2012

Appeal Ref: APP/Q0505/A/11/2161202

Penny Ferry Public House, 110 Water Street, Cambridge, CB4 1PA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Roger Stephen Covell and Cheryl MacDonald against the decision of Cambridge City Council.
 - The application Ref 09/1200/FUL, dated 24 December 2009, was refused by notice dated 28 March 2011.
 - The development proposed is the erection of 5, 4 bedroom houses following demolition of the former public house.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of 5, 4 bedroom houses following demolition of the former public house at Penny Ferry Public House, 110 Water Street, Cambridge CB4 1PA in accordance with the terms of the application, Ref 09/1200/FUL, dated 24 December 2009, subject to the conditions in the schedule at the end of this decision.

Application for costs

2. At the Hearing an application for costs was made by Roger Stephen Covell and Cheryl MacDonald against Cambridge City Council. This application is the subject of a separate Decision.

Procedural matters

3. An appeal in relation to a planning application made by a person who has since died needs to be made in the name of the executors of the deceased's estate. Accordingly, I have amended the details of who has made the appeal to reflect this. A unilateral undertaking has also been submitted.

Main Issue

4. The main issue in this appeal is the effect of the proposal on the character and appearance of the area.

Reasons

Principle of development

5. Policy 5/11 of the Cambridge Local Plan seeks to prevent the loss of community facilities, but excludes public houses from the list of such facilities. Planning Policy Statement 4: 'Planning for Sustainable Economic Growth' (PPS4) requires that local planning authorities protect existing facilities that meet

people's day to day needs in local centres and villages. However, the Penny Ferry Public House is not within a local centre and there is another public house, the Green Dragon, nearby to the east.

6. The appeal site is previously developed land in a sustainable location. Policies 3/1 and 5/1 of the Local Plan support the redevelopment of such sites for housing in order to assist in meeting the housing targets for the city. As a consequence, redevelopment of the site for housing would be acceptable in principle.

Character and appearance

7. The appeal site is located on the northern banks of the River Cam to the east of the city centre. The river acts as a boundary with residential urban development characterising the northern side of the river. On the opposite side the open meadowland of Stourbridge Common and Ditton Meadows reaches into the city from the surrounding countryside.
8. The appeal site is occupied by Penny Ferry Public House, formerly known as the Pike and Eel Public House, which dates from the mid 19th century. It is a 2 storey gable ended building that has been considerably extended at ground floor level and has hardstanding to its western side. The building is not a listed building. The view of the Conservation Officer of the Council is that the building is not of sufficient quality to merit it being identified as a building of local interest and I agree with that position.
9. An early drawing of showing the pub in the distant past suggests that the area was originally rural in character. Since then the northern river bank has been developed with semi-detached and detached dwellings on comparatively narrow plots. As a consequence, the area has a comparatively fine urban grain. In comparison the appeal site is wide and the building in occupying a relatively small proportion of it has a far coarser grain.
10. Planning Policy Statement 3: '*Housing*' (PPS3) requires that efficient and effective use of land is made for housing which is compatible with the character and appearance of the area. The existing public house is set on the back edge of the pavement and has a continuous façade which occupies over half the width of the site. As a consequence, the views of the river and common beyond are limited to the eastern and western ends of the plot. Although the appeal proposal would result in a greater proportion of the site being occupied by 2 storey development, the massing effect of the houses would be reduced by the gaps between the dwellings. These gaps would also introduce glimpsed views of the trees at the rear of the site and the openness of Stourbridge Common beyond into the streetscene.
11. In terms of height the eaves of the houses would be similar in height to the eaves of the main 2 storey part of the public house, but the roof ridges of the dwellings would be 1m taller. This increase in height would not be so significant as to be out of keeping with surrounding development.
12. The architectural style of the dwellings has been influenced by gable fronted boat houses present to the west of the site. Whilst the entrance doors to the properties are on the flank wall of each house the ramped access would help identify their location which would ensure that the houses were legible. The asymmetrical arrangement of fenestration would also provide interest. To the

rear the ground floor patio and balcony would make the most of the riverside setting of the site.

13. Although 4 of the 5 houses would be the same design repetition in itself is not harmful. Subject to the use of materials of suitable appearance and quality, which is a matter that could be controlled by the attachment of a suitably worded condition, the quality and integrity of the scheme would not be compromised. Several of the trees on the site have been protected by a tree preservation order. The retention of all the healthy mature trees on the site would maintain the sylvan character of the plot and the contribution of the trees to the riverscape.
14. Given the grain of nearby development I therefore find that the height, scale and form of the proposed houses would be in keeping with the mixed character and the pattern of development in the area. In making an efficient and effective use of the site the scheme would also comply with the objectives of PPS3.

Central Conservation Area

15. The Riverside and Stourbridge Common part of the Central Conservation Area has been reviewed. The appraisal recommends the extension of the Conservation Area to include, amongst other locations, the appeal site. The appraisal has been subject to public consultation which is broadly supportive of the proposal and a report recommending adoption of the revised Conservation area boundary will go before the Authority in mid March 2012. Whilst it is not yet part of the Conservation Area, on the basis that it appears that the appeal site soon will be, I attach significant weight to this consideration.
16. The appeal site and neighbouring parking area are the only sites which form part of the immediate river scene on the northern banks of the river which would be included within the Conservation Area. The Conservation Area to the west away from the appeal site is characterised by terraced streets of gault brick houses which would give way to open meadow land to the east on the southern side of the river opposite the appeal site. The appraisal identifies that the Penny Ferry Public House is a '*visually prominent building on both side of the River Cam and is a significant site on the river bank*'. It also identifies that it is an important view from the southern bank of the river. However, it does not consider that the public house is worthy of being confirmed as a building of local interest. This confirms my view that much of the value of the site relates to the contribution of the mature trees and open garden between the building and the river bank to the river scene and Stourbridge Common. Given that the houses have been well designed and the trees and openness of land along the river bank would not be materially harmed the proposal, should the Conservation Area be extended to include it, would achieve the objective of preserving the contribution of the appeal site to the character and appearance of the Conservation Area.
17. Planning Policy Statement 1: *Delivering Sustainable Development* (PPS1) places a clear emphasis on high standards of design. For the reasons I have given the proposal would achieve this objective. It would also preserve the Conservation Area. I therefore conclude that the proposal would comply with policy ENV/7 of the East of England Plan and policies 3/4, 3/7 and 3/12 of the Cambridge Local Plan. These policies require the protection of the character

and appearance of a locality through high quality design that respects local design features.

Other matters

Viability and mixed use of the site

18. The public house is vacant and boarded. It had been unable to operate viably before its closure and a significant amount of investment would be required to reopen it once again. I note the desire of some local residents to see it trade once more, or mixed use development on the site. However, this is a consideration to which I attach little weight given the policy support in principle for the development.

Public access to the site

19. When the public house was open patrons had access to the river bank. However, the appeal site was and continues to be private land with no public right of access. As a consequence, the redevelopment of the site for private housing will not have an adverse effect on public access to the river at this point.

Planning obligation and the provision of infrastructure and services

20. Of the development plan policies referred to I consider policy 10/1 of the Local Plan to be the most relevant to this issue. A unilateral undertaking under Section 106 of the Act has been submitted. It has been drawn up having regard to Policy 10/1 of the Local Plan and supplementary planning guidance 'Planning Obligations Strategy 2004' (SPG). The agreement has been assessed having regard to the tests in Circular 5/2005 and the requirements of Regulation 122 of the Community Infrastructure Regulations 2010.

21. Charges for the provision of preschool education, lifelong learning / libraries, open space and community development have been made using the formulae in the SPG. In all but lifelong learning / libraries there is evidence, either in the form of cited studies or local data, that extra provision is necessary if the development was to go ahead because existing provision is failing to meet demand. The contributions have been calculated based upon the additional demand the development is likely to generate and the cost of providing infrastructure. The sums sought are therefore reasonably related in kind and scale to the proposed development. Furthermore, the monies would be spent on an identified programme of local provision. As a consequence, I find that the financial contributions sought, other than in relation to lifelong learning / libraries, satisfies the tests in the Circular and accords with the Regulation. I shall therefore take the provisions of the unilateral undertaking, with the exception of the sum sought in relation to lifelong learning / libraries, into account.

Conditions

22. For the avoidance of doubt, and in the interests of proper planning, I shall list the approved plans in a condition attached to the permission and require that the development is carried out in accordance with these plans. In order to ensure that the development complements its surroundings further details on landscaping, the submission of samples of materials to be used on external surfaces and a sample panel are required. To ensure that any planting

becomes well established it needs to be well maintained. Furthermore, the trees on the site which contribute to the mature landscaping and are to be retained need to be protected.

23. As the County Council's records indicate that the site lies within an area of high archaeological potential it is necessary to require that a programme of archaeological work is undertaken. The houses have been carefully designed to make an efficient use of the site whilst respecting its character. Given that the site is in a prominent position on the river bank permitted development rights need to be removed to protect the architectural integrity of the development and its contribution to the character and appearance of the area.
24. Owing to the proximity of the site to the river measures need to be taken to protect future development and its occupiers from the risks of flooding, and to prevent an increased risk of flooding elsewhere. In the interests of sustainable development cycle parking and recycling facilities need to be provided and retained. Given the potential for nuisance to nearby residents control needs to be exerted on the management of the construction site, noise and the hours of construction. Weekends and bank holidays are particularly valuable and noise on such days would be particularly intrusive. Other than on Saturday mornings I have therefore prevented deliveries and construction on these days.
25. I have required all these matters by condition, revising the Council's suggested conditions where necessary to better reflect the requirements of Circular 11/95 '*The Use of Conditions in Planning Permissions*'.
26. As the area has a mains gas supply oil will not be needed for heating. As a consequence, the condition requiring bunding of oil storage tanks is unnecessary. Other than controlling the hours of work and delivery of materials the only noise condition of those suggested which is necessary is a report detailing how noise and vibration will be controlled during construction.

Conclusion

27. For the reasons that I have given, and having regard to all other matters raised, including the views of interested parties, local residents and councillors, I conclude that the appeal should be allowed.

Schedule

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: P-02 Rev G, P-03 Rev B, P-07 Rev C.
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) Before starting any brick or stone work, a sample panel of the facing materials to be used shall be erected on site to establish the detail of bonding, coursing and colour and type of jointing and shall be agreed in writing with the local planning authority. The quality of finish and material incorporated in any approved sample panel(s), which shall not

be demolished prior to completion of development, shall be maintained throughout the development.

- 5) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc); proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.); retained historic landscape features and proposals for restoration, where relevant. Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; implementation programme.
- 6) No development shall take place until a schedule of landscape maintenance for a minimum of 5 years has been submitted to and approved in writing by the local planning authority. The schedule shall include details of the arrangements for its implementation.
- 7) No work shall start on the application site (including soil stripping, pre-construction delivery of equipment or materials, the creation of site accesses, and positioning of site huts) until:
 - a) A tree protection plan has been submitted to and agreed in writing by the local planning authority.
 - b) The developer has appointed a competent arboriculturalist and there has been a site meeting between the site agent, the developer's arboriculturalist and the Council's Arboricultural Officer.
 - c) All development facilitation pruning has been completed in accordance with BS 3998:1989.
 - d) All tree protection barriers and ground protection measures have been installed in accordance with the approved tree protection plan.
- 8) The tree protection barriers and ground protection measures installed in accordance with condition 7 shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area protected by the barriers and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the local planning authority.
- 9) No development shall take place within the site until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-

enacting or modifying that Order), no development within Classes A, B, C, D and E of Schedule 2, Part 1 of this Order shall be undertaken at any time.

- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows other than those expressly authorised by this permission shall be constructed.
- 12) The communal area to the south of the application site shall remain as an open garden area with no delineated sections. No buildings, fencing, walls or ground raising shall be permitted in this area.
- 13) No ground raising, heaps or spoil shall be deposited within the 1 in 100 year floodplain as defined by the 5.42m Above Ordnance Datum contour, during or after construction of the development.
- 14) The finished floor level of the residential units hereby approved shall be set at least 5.92m Above Ordnance Datum.
- 15) The carports hereby approved shall remain open in perpetuity and the finished floor level shall be set no higher than 300mm below the 1 in 100 year flood level of 5.42m Above Ordnance Datum.
- 16) No development shall commence until such time as a scheme for the surface water drainage has been submitted and approved in writing by the Local Planning Authority. All surface water disposed to soak away systems as part of the scheme shall be designed and constructed in accordance with BRE365. Development shall be carried out in accordance with the approved details prior to first occupation of any of the dwellings hereby permitted.
- 17) The undercroft to the residential units hereby permitted shall remain open in perpetuity. The undercroft shall be designed in accordance with the Flood Risk Assessment and the lowest underside beam (soffits) of the buildings shall be no lower than 5.80m Above Ordnance Datum.
- 18) The hard invert level of the void beneath the residential dwellings hereby approved shall be set no higher than 4.85m Above Ordnance Datum.
- 19) Prior to first occupation of the units hereby approved warning signs, warning of the dangers of flooding to the garden and undercrofts, shall be erected within car parking and carport areas and the communal garden area. The signage shall be retained in perpetuity. The design and proposed locations of the signage shall be submitted to and agreed in writing by the Local Planning Authority.
- 20) Prior to first occupation of any of the residential dwellings hereby approved a full topographic survey of the site including land levels, finished floor levels, soffit levels and void invert levels, shall be carried out in metres O.D.N. and submitted to and approved in writing by the Local Planning Authority.
- 21) Prior to first occupation of the residential units hereby permitted, the on-site storage facilities for waste, recyclables and cycle parking detailed on the approved plans shall be provided and retained as such thereafter.
- 22) Prior to the commencement of the development hereby approved (including any pre-construction, demolition, enabling works and piling if

required), the applicant shall submit a report in writing regarding the demolition / construction noise and vibration impact associated with the development for approval in writing by the Local Planning Authority. The report shall be in accordance with the provisions of BS 5228:2009 'Noise and Vibration Control on Construction and Open Sites'. The development shall be carried out in accordance with the approved details.

- 23) Demolition or construction works shall not take place outside the hours of 08.00 hours to 18.00 hours Mondays to Fridays, 08.00 hours to 13.00 hours on Saturdays and at no time on Sundays, Bank or Public Holidays.
- 24) No collection or deliveries to the site shall occur outside the hours of 07.00 hours to 19.00 hours Monday to Saturday and at no time on Sundays, Bank or Public Holidays.
- 25) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors
 - ii) loading and unloading of plant and materials
 - iii) storage of plant and materials used in constructing the development
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - v) wheel washing facilities
 - vi) measures to control the emission of dust and dirt during construction
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works

Ian Radcliffe

Inspector

Dear Mr Collins,

You will remember our email exchanges earlier in this year.

I have just spoken to your democratic services colleagues and would like to ask to be clarified (in the agenda amendment sheet produced just before the meeting) a statement in the Agenda 5c report. The email exchanges below refer.

The statement is

Additional Comments

6.3 At the time of writing the memo there were no complaints against the property, the first correspondence received was on 12th March 2012 but we have not witnessed or established noise nuisance from this property. Should noise arise there are provisions in the Environment Protection Act and HMO Management Regulation to mitigate against this.

On its face this statement suggests there was one complaint and the complaint was not a strong one. This is seriously misleading. Indeed it calls into question the planning officer's recommendation.

To redress the balance a little, I would ask the following clarification to be given to councillors prior to the meeting:

- > Local residents object that the report seriously underplays the extent of the
- > noise problem:
- > * The noise began and continued regularly from September 2011 until March
- > 2012.
- > * The committee is asked to look at the 6 independent noise diaries submitted
- > as objections to this application. These accounts are first hand, independent,
- > specific evidence which all provide support for the other diaries. It is
- > important that the committee appreciate that this is not hearsay evidence, but
- > direct, signed, corroborated and unchallenged evidence.
- > * The owner sought to describe this evidence in his Design and Access
- > Statement as 'unsubstantiated'. This is clearly untrue. He lives miles away.
- > * It is true that the city council did not witness and establish the
- > complaints first hand, though the Environmental Health team can confirm that a
- > further brief disturbance was reported in June. 'Establishing' the complaints
- > was not necessary from an environmental health perspective, nor was it
- > possible to 'witness' the problem, because the threat of the planning process
- > (and possibly fear of eviction) caused the tenants immediately largely to
- > behave themselves - from the moment the noise diaries were submitted in the
- > planning process.
- > * Committee should also note that because of the planning threat, the tenants
- > did in fact give notice of the June party. Indeed they agreed not to make any
- > noise at all when challenged by the owner of the property opposite, whose
- > daughter was very unwell and trying to sleep before a GCSE exam the following
- > morning. This undertaking was partly, but not fully, fulfilled: as noted
- > above some noise was reported by a different resident.
- > * Residents submitting the noise diaries invited the city council in April to
- > interview the complainants, to verify the noise diaries, if this would be
- > needed to substantiate for the planning committee. This invitation was not

> taken up by the planning team.
> * The environmental health team response, included as a document for the
> planning committee, does not say that the powers under the Environment
> Protection Act and HMO Management Regulation are sufficient in respect of 19
> Alpha Road. Residents strongly contend that that once planning is given, the
> powers under the Act and Regulation will be insufficient.

>
>

Ideally you should provide the email exchange below so councillors have the full background if they wish to read it.

FYI, I challenged the tenants about the June party. I did not make the subsequent environmental health complaint.

--

Dear Alex,

I think we have come full circle then: The label 'Unsubstantiated' is a personal comment by the owner. Mr. Patel if we need to provide more proof of the problem for planning purposes, we would be happy to interviewed.

R

----- Forwarded Message

From: Alex Beebe <Alex.Beebe@cambridge.gov.uk>

Subject: Re: 19 Alpha Road / HMO

Dear Mrs B,

With respect to your question about the planning process I have been advised to refer you to the e-mail I believe you were sent by Mr Amit Patel recently. I am not involved, nor experienced, in the planning process therefore I cannot comment on what may be required from you and affected neighbours. It is disappointing that the applicant did state that the complaints made were unsubstantiated but as I understand the matter, the Design and Access Statement is written entirely from the applicant's perspective; seemingly they have a different definition of when a complaint is 'substantiated'. If you have any further questions regarding the planning aspect then I recommend you speak with Mr Patel or Mrs Deborah Jeakins, who I believe you have also had correspondence with recently.

I can confirm that it is the current procedure within the Refuse & Environment Service to write an initial warning letter on the receipt of a complaint; this does not have to involve the submission of diary sheets as the subject of the complaint is informed that at the time of writing the complaint has yet to be substantiated. In our service we regard diary sheets as helpful in resolving a case as they can provide a means of recording disturbance, analysing patterns and potentially challenging the subject(s) with the incidents recorded. We cannot, however, use them as direct evidence

in a case; in order to substantiate that a statutory noise nuisance has occurred then an officer needs to visit the complainant's property at the time the noise is ongoing and deem the noise to be a nuisance.

I am pleased to hear that the situation has quietened since my involvement. If you do experience further disturbance then please do not hesitate to contact me.

Yours sincerely

Alex Beebe
Environmental Protection Officer

Dear Alex,

Thank you. The position is much now clearer.

We are very grateful for you writing to the tenants and speaking to the landlord.

Yes, there may be a problem with a post exam party. A one-off problem would be quite different from the very regular disturbances we experienced in the autumn and earlier part of this year.

I completely understand that the Council would not move to formal action unless the noise was serious and those responsible were not responding to more informal action. That is entirely sensible.

That is of course quite different from categorising our clear and first hand evidence of problems, given by a number of independent witnesses, as 'Unsubstantiated' - as the owner did in the Design and Access Statement and Cllr Todd seemed to accept in his initial email. By contrast, you obviously regarded our noise diaries as sufficiently supported (ie substantiated) to take informal action; as did the owner in fact who, despite the pejorative 'Unsubstantiated' label in the Design and access statement, would have appeared to have accepted that there was in fact sufficient grounds to talk to the tenants. (The owner could also usefully have spoken to us, it should be added, but did not.)

In summary:

* From the environmental health perspective I don't think we would want or expect the Council to waste its time taking action at this point, now that the nuisance has, for the moment, subsided. If it re-occurs, we now know how to access your services.

* From the planning perspective, I would hope there isn't any longer any doubt at all about the validity of the noise diaries which set out the problems we have experienced and which we notified through the planning process. If there is - if the evidence is felt to be insufficient to count in the planning process without interviewing us - I, and no doubt the other people copied in the this email exchange, would be ready, indeed very anxious, to be interviewed. Is that necessary? Please let us know. I cannot do 27th April but would try to be available on either of the other

days. But I hope that isn't necessary.

* At root we are clear that 7 student units is too many. It seems we will have to live with the 6 units allowed under the HMO process. That is already too many (and we wonder whether proper attention was paid to the CEFIT and proper person¹ test in issuing the HMO licence). But we hope that perhaps 6 units will more controllable through the environmental health mechanisms than 7 (or the 8 currently occupied).

Thank you

R

On 17/4/12 10:51, "Alex Beebe" <Alex.Beebe@cambridge.gov.uk> wrote:

> Dear Mrs B,

>

> The summary that Cllr Todd-Jones gives is indeed accurate - the Council would
> need evidence of a nuisance existing before we could take formal action
> against the tenants of 19 Alpha Road. In brief, if a nuisance is witnessed
> then the Council can serve a noise abatement notice on all occupants of the
> property. This is a legal notice, which requires an immediate cessation of
> said nuisance noise. Breaching the notice is a criminal offence and if the
> Council chose to pursue prosecution then the maximum fine upon summary
> conviction in a Magistrates' Court is £5,000 per breach witnessed.

>

> I am pleased to hear that the situation has been quieter since I wrote to the
> tenants. I did speak with the landlord on the 16th March 2012 and she has
> spoken with the occupiers to remind them of the need to not cause a nuisance
> and to be considerate of their neighbours, especially at night-time. I expect
> (some of) the tenants are on Easter vacation at the moment and upon their
> return we will be entering the exam period so I would expect the situation to
> remain quiet; the only potential noise issue I can see on the horizon is if
> post-exam parties are held at the property.

>

> I hope the above information is helpful but if you did feel the need to
> discuss the matter further and would like me to visit (with Cllr Todd-Jones as
> well if you did so wish) then my working days are Tuesdays, Wednesdays and
> Fridays and I would also be happy to do an early evening visit on one of those
> days. The times I cannot do in the next two weeks are: Wednesday 25th (am),
> Friday 27th (am) and Friday 4th May (all day).

>

> Please do not hesitate to contact me if you have any further questions or
> queries.

>

> Yours sincerely

>

> Alex Beebe
> Environmental Protection Officer

>

> Dear Mike,

>

> Thank you, that is clearer. Life is extremely busy. We haven't taken any
> further action on the noise complaint because the tenants have clearly been
> warned to be very careful and quiet.
>
> If there is to be any doubt about the validity of the problems we have
> experienced, I will of course attend a meeting, as I am sure [other concerned
residents] will if required. If this is necessary, perhaps Alex
> can propose some dates. A Wednesday or a Friday works best for me or an
> evening, but not next week.
>
> R
>
>
> On 13/4/12 17:31 Coun Todd-Jones wrote:
>
>> Dear R,
>>
>> Sorry if perhaps my email wasn't very clear on this point. My understanding,
>> and perhaps Alex can confirm or otherwise, is that - and this my experience
>> from involvement with other 'noise nuisance' cases involving e.g. Housing
>> Officers and Environmental Health Officers - whilst noise diaries provide
>> evidence according to neighbours of a pattern of noise nuisance etc., upon
>> which a Housing Officer or Environmental Health Officer can make a judgement,
>> e.g. when to visit a site etc., it requires a visit and corroboration by a
>> council officer before noise complaints are 'substantiated.'
>>
>> It would obviously be helpful to have a meeting with Alex Beebe so that the
>> situation regarding 19, Alpha Road, i.e. whether any evidence - diary sheets
>> or otherwise - of noise nuisance has actually been investigated and verified
>> by a council officer, can be clarified. I am more than happy to attend a
>> meeting with yourselves and Alex Beebe if you think this will help.
>>
>> Regards,
>>
>> Mike Todd-Jones
>>

>> Sent: Friday, 13 April 2012, 17:00
>> Subject: Re: 19 Alpha Road / HMO
>>
>> Dear Cllr Jones,
>>
>> You, and more importantly, the applicant are technically incorrect:
>> ³Unsubstantiated² means ³unsupported by other evidence². The 5 independent
>> noise diaries all provide support for the other diaries.
>> If however you mean that the City Council has not taken steps to verify the
>> complaints and this will be important for the planning committee, please
>> could Mr Beebe make appointments with us all as soon as possible to do so.
>> A further noise diary will be submitted shortly from No 22 Alpha Road.
>> Please acknowledge receipt and confirm the correction.
>>
>> Yours sincerely,
>>

>> R
>>
>> On 13/4/12 16:41, Coun Todd-Jones wrote:
>>
>>> Dear all,
>>>
>>> Have had confirmation from Environmental Health that, regarding the previous
>>> history of complaints and any investigation, no noise nuisance allegations
>>> have been verified so far so, 'technically', the applicant is 'correct' to
>>> say in the D & A statement that noise complaints are 'unsubstantiated.'
>>>
>>> Regards,
>>>
>>> Mike
>>>

>>> Sent: Tuesday, 10 April 2012, 8:35
>>> Subject: Re: 19 Alpha Road / HMO
>>>
>>> We have lodged a complaint with Environmental Health. However for the
>>> moment the tenants are being very quiet.
>>>
>>>
>>> On 10/4/12 08:23, "Debs Jeakins" <Debs.Jeakins@cambridge.gov.uk> wrote:
>>>
>>>> Dear Mike,
>>>>
>>>> I can confirm that the the Design and Access statement is written by the
>>>> applicant and so the Local Planning Authority has no control over the
>>>> contents, this is why Amit described it as a 'personal statement'.
>>>>
>>>> The Planning Enforcement Service does not investigate disturbance caused by
>>>> noise unless it specifically relates to a breach of condition. In this case
>>>> there is no condition to monitor and so I have not investigated the noise
>>>> allegations and cannot comment on whether the allegations are substantiated
>>>> or not.
>>>>
>>>> If the complainants do wish to report a noise nuisance they should contact
>>>> the Environmental Health team on 01223 457000. I hope this answers your
>>>> query, please let em know if you need any more information.
>>>>
>>>> Kind regards
>>>>
>>>> Debs
>>>>
>>>>
>>>>
>>>>
>>>> Planning Enforcement Officer
>>>> Cambridge City Council
>>>> 01223 457163
>>>>>> >>> Coun Todd-Jones 06/04/2012 15:21 >>>
>>>> Debs,

>>>>
>>>> Thanks for copying me into your email. I've also received the email from
>>>> Amit that mentions the new Design & Access Statement as a 'personal
>>>> statement' on behalf of the applicant. Amit has also addressed the point
>>>> about the annexe and that it can't be used as habitable accommodation re:
>>>> this application - otherwise the applicant will be in breach.
>>>>
>>>> However, can I check whether it is correct to describe the noise complaints
>>>> referred to in the D & A statement as unsubstantiated? I understood that
>>>> Planning Enforcement had investigated some of these complaints and, if
>>>> verified by Planning Enforcement, would not be unsubstantiated but
>>>> confirmed? Or perhaps investigations by Planning Enforcement hadn't backed
>>>> up the noise complaints?
>>>>
>>>> Thanks,
>>>>
>>>> Mike Todd-Jones
>>>>
>>>> Dear Mrs B,
>>>>
>>>> Thank you for your email.
>>>>
>>>> I can confirm that earlier today I sent you the same email that V has forwarded
to you, please let me know if you did not receive it
>>>> and I will try to ascertain why.
>>>>
>>>> I have noted your queries however as I have previously explained, I only
>>>> deal with enforcement issues and so am unable to address or answer any
>>>> planning queries or queries which relate to planning applications.
>>>>
>>>> I have copied Mr Patel, the case officer into this reply so that he can try
>>>> to address your concerns.
>>>>
>>>> Please fee free to contact me if you have any enforcement queries.
>>>>
>>>> Regards
>>>>
>>>> Deborah Jeakins
>>>>
>>>> Planning Enforcement Officer

02/04/2012 14:50 >>>
>>>> Dear Ms Jeakins,
>>>>
>>>> Thank you, V, for forwarding this to me. I have had a quick look at
>>>> the documents. The site plan seems correct this time, showing the
>>>> extension.
>>>> There is now a completed re-drafted design and access statement, to which I
>>>> will draft a response and share with my neighbours.
>>>>
>>>> Ms Jeakins, could you answer 2 questions for me:
>>>> 1. The design and access statement refers to the noise complaints being
>>>> 'unsubstantiated'; presumably the owner viewed the noise diaries loaded on

>>>> line? Is the word "Unsubstantiated" meant to mean untrue therefore?
>>>> Perhaps you would clarify what further evidence the owner is expecting to
>>>> the committee to see?
>>>>
>>>> 2. I note that the application is only for 7 units, not 8. The outbuilding
>>>> remains shown on the site plan. Is the intention to use this outbuilding as
>>>> a student unit been withdrawn? If not, why is it not included in the
>>>> application?
>>>>
>>>> The house has been pretty quiet since the planning application was
>>>> withdrawn which does suggest that the owner has been for the first time
>>>> exercising some control, at least of a temporary nature, over his tenants.
>>>>
>>>> Yours sincerely,
>>>>
>>>> R
>>>>
>>>>
>>>> On 2/4/12 11:57, "V" wrote:
>>>>
>>>> Thank you Debs
>>>>
>>>> I will look at the new application. Can I see the plans online? I would
>>>> presume (although not seen the application yet) that many of the same
>>>> concerns will still apply. Do they all have to be individually submitted or
>>>> can they be "carried over"?
>>>> It was a huge amount of work for all of us with the previous application.
>>>>
>>>> Very best wishes
>>>>
>>>> V