

Application Number	13/0759/FUL	Agenda Item	
Date Received	30th May 2013	Officer	Natalie Westgate
Target Date	25th July 2013		
Ward	Petersfield		
Site	Calcutta Club 44 Mill Road Cambridge Cambridgeshire CB1 2AS		
Proposal	Erection of three maisonettes and roof garden above the rear of the restaurant at 44 Mill Road.		
Applicant	Mr Kalpesh Brahmhatt 10 Fen Road Chesterton Cambridge Cambridgeshire CB4 1TX		

SUMMARY	<p>The development accords with the Development Plan for the following reasons:</p> <ol style="list-style-type: none"> 1. The proposal conforms to development plan policies. 2. The proposal is not likely to have a harmful impact upon the character and appearance of the conservation area. 3. The proposal is not likely to significantly impact upon neighbouring occupiers.
RECOMMENDATION	APPROVAL

1.0 SITE DESCRIPTION/AREA CONTEXT

1.1 The application relates to the site above the restaurant at No.44 Mill Road. The site is situated on the south western side of Mill Road. The surrounding uses are commercial and residential.

1.2 The site is within a conservation area and a controlled parking zone. The building is adjacent to the Sally Anne (former Cinema), which is a Building of Local Interest.

2.0 THE PROPOSAL

2.1 The application seeks planning permission for the erection of three maisonettes and roof garden above the rear of the restaurant at 44 Mill Road.

The application is brought before Planning Committee because the neighbour objections.

3.0 SITE HISTORY

Reference	Description	Outcome
13/0113/FUL	To build three maisonettes above the rear of the restaurant in 44 Mill Road.	Withdrawn

4.0 PUBLICITY

4.1 Advertisement:	Yes
Adjoining Owners:	Yes
Site Notice Displayed:	Yes

5.0 POLICY

5.1 See Appendix 1 for full details of Central Government Guidance, Cambridge Local Plan 2006 policies, Supplementary Planning Documents and Material Considerations.

5.2 Relevant Development Plan policies

PLAN	POLICY NUMBER
Cambridge Local Plan 2006	3/4 3/7 3/12 4/10 4/11 5/1 5/2 8/2 8/4 8/6

5.3 Relevant Central Government Guidance, Supplementary Planning Documents and Material Considerations

Central Government Guidance	National Planning Policy Framework March 2012 Circular 11/95 Community Infrastructure Levy Regulations 2010
Supplementary Planning Documents	Sustainable Design and Construction Planning Obligation Strategy
Material Considerations	<u>Citywide:</u> Cycle Parking Guide for New Residential Developments
	<u>Area Guidelines:</u> Conservation Area Appraisal: Mill Road Area

6.0 CONSULTATIONS

Cambridgeshire County Council (Engineering)

6.1 There are no plans for the three proposed parking spaces. An informative should be attached for the future residents will not qualify for Residents' Permits (other than visitor permits) within the existing Residents' Parking Scheme operating on surrounding streets.

Head of Environmental Services

6.2 No objection subject to conditions and informatives.

Urban Design and Conservation Team

6.3 Support with conditions.

Head of Streets and Open Spaces (Landscape Team)

6.4 Objection. The scheme is an overdevelopment with lack of residential amenity.

6.5 The above responses are a summary of the comments that have been received. Full details of the consultation responses can be inspected on the application file.

7.0 REPRESENTATIONS

7.1 The owners/occupiers of the following addresses have made representations:

- 5 Covent Garden
- 12 Covent Garden
- 1 Mill Street
- 7 Mill Street
- 13 Mill Street
- 44 Mill Road

7.2 The representations can be summarised as follows

- Poor design
- Not well related to existing building
 - Overlooking and loss of privacy to residents in Mill Street
 - Roof garden will create overlooking and loss of privacy to residents in Mill Street and noise and disturbance to residents in Covent Gardens
- Concerns on security in the backyard
- Parking
- Refuse collection
- Health and safety including fire escape
- Noise from kitchen extraction
- Inaccurate Design and Access Statement
- Construction noise

7.3 The above representations are a summary of the comments that have been received. Full details of the representations can be inspected on the application file.

8.0 ASSESSMENT

8.1 From the consultation responses and representations received and from my inspection of the site and the surroundings, I consider that the main issues are:

1. Principle of development
2. Context of site, design and external spaces
3. Residential amenity
4. Refuse arrangements
5. Highway safety
6. Car and cycle parking
7. Third party representations
8. Planning Obligation Strategy

Principle of Development

8.2 This is a windfall site under 5/1. Policy 3/10 sets out the relevant criteria for assessing proposals involving the subdivision of existing plots. Such proposals will not be permitted where: a) there is a significant adverse impact on the amenities of neighbouring properties, through loss of privacy, loss of light, an overbearing sense of enclosure and the generation of unreasonable levels of traffic or noise nuisance; b) they provide inadequate amenity space, vehicular access arrangements and car parking spaces for the proposed and existing properties; c) where they detract from the prevailing character and appearance of the area; d) where they adversely affect the setting of Listed Buildings; e) where there is an adverse impact upon trees, wildlife or architectural features within or close to the site; f) where development prejudices the comprehensive development of the wider area, of which the site forms part.

8.3 The scheme represents a 'windfall' development and could not form part of a wider development in accordance with 3/10 (f). It is recognised that it is not out of character for first floor maisonettes to the rear of properties along Mill Road. The building is adjacent to the Sally Anne (former Cinema), which is a Building of Local Interest but it would not have a significantly harmful impact on the Building of Local Interest in accordance with 3/10 (e). The character and amenity sections of policy 3/10 are considered in the relevant subsections below.

- 8.4 There is no objection in broad principle to residential development, but the proposal has to be assessed against the criteria of other relevant development plan policies. In my opinion, the principle of the development is acceptable and is in accordance with 5/1.

Context of site, conservation area, design and external spaces

- 8.5 The site is considerably constrained with commercial properties to the east and west of the site. From Covent Garden it will be possible to view obliquely but it is the Sally Anne building that is the most visible. The building is adjacent to the Sally Anne (former Cinema), which is a Building of Local Interest but it would not have a significantly harmful impact on the Building of Local Interest. I note that the Conservation Officer does not object to the proposed design subject to the attached conditions.
- 8.6 The proposed design is of a scale that fits in its locality and given the mixture of roof designs in this part of Mill Road then the proposed regular 3 pitched roof design will add interest to the roof form in this area. The proposed windows are of a design to add character to the design of the flats.
- 8.7 I agree with the advice of the Conservation Officer. In my opinion the proposal accords with Cambridge Local Plan (2006) policies 3/4, 3/12, and 4/11.

Residential Amenity

Impact on amenity of neighbouring occupiers

- 8.8 There are neighbouring residential properties to the north and south of the proposed site.
- 8.9 To the north are flats within the site but these will maintain separate access and the introduction of a landscaped roof garden will improve their existing amenity. The introduction of the flats will be visually dominate and enclose the existing flats but the benefits of the landscaped private space mitigates these matters.

- 8.10 To the south of the site are residential properties on Mill Street and given the separation distance of 18m from these properties to the application site and the proposed design of the flats with canted windows to divert views away from Mill Street properties, then I do not consider there to be issue of overlooking or loss of privacy or noise and disturbance to warrant refusal of the application, noise and disturbance to residents in Covent Gardens
- 8.11 To the far west and south of the site are residential and commercial properties on Covent Gardens and given the separation distance of 15m from these properties to the application site and the proposed design of the flats with canted windows to divert views away from Covent Gardens properties, then I do not consider there to be issue of overlooking or loss of privacy or noise and disturbance to warrant refusal of the application.
- 8.12 Implementation of this proposal would result in additional residential occupiers using the shared gate which encloses the rear yard area between the site and Nos. 5 and 7 Covent Garden. The occupiers of commercial premises which use this yard have raised concerns that such future occupiers will not be conscientious about the security of this gate. I understand their concerns, especially given the past history of significant anti-social behaviour in this yard. However, the occupiers of the proposed dwellings will have the protection of their own property as an incentive to respect the security of the gate, and I am of the view that the increase in natural surveillance provided by the new units will outweigh any dilution of security resulting from a greater number of users. In my view, a condition requiring a management plan for the security of the yard area is necessary to ensure there is no harmful impact. The issue of health and safety is not a planning matter.
- 8.13 In my opinion the proposal adequately respects the residential amenity of its neighbours and the constraints of the site and I consider that it is compliant with Cambridge Local Plan (2006) policies 3/4 and 3/7.

Amenity for future occupiers of the site

- 8.14 The application follows a previously withdrawn scheme (13/0113/FUL) and now has addressed previous concerns with

residential access at the rear of the site and adequate provision of bins and bicycles within the site. The Landscape Officer has expressed concern that the roof garden will not have adequate sunlight. I acknowledge that the space will be enclosed on all of its sides and in shadow, but my opinion that for a tightly constrained site as this any private or communal space is a bonus. It is within close walking distance of Parker's Piece.

- 8.15 In my opinion the proposal provides a high-quality living environment and an appropriate standard of residential amenity for future occupiers, and I consider that in this respect it is compliant with Cambridge Local Plan (2006) policies 3/7 and 3/12.

Refuse Arrangements

- 8.16 The application follows a previously withdrawn scheme (13/0113/FUL) and now has addressed previous concerns with adequate provision of bins for each use within the site.
- 8.17 In my opinion the proposal is compliant with Cambridge Local Plan (2006) policy 3/12.

Car and Cycle Parking

Car Parking

- 8.18 There is no additional parking provision and given the town centre location with adequate public transport in the area then this would be acceptable. I attach the informative on Residents' Permits as recommended by the Highway Officer.

Cycle Parking

- 8.19 The application has adequate provision of 12 bicycles within the rear of the site.
- 8.20 In my opinion the proposal is compliant with Cambridge Local Plan (2006) policies 8/6 and 8/10.

Third Party Representations

- 8.21 There is a condition for hours of construction noise. There is a condition for noise.

- 8.22 There is a condition on security in the parking area and this is addressed also in paragraph 8.12.
- 8.23 The application forms states there is no change in the parking of 3 cars as the existing situation.
- 8.24 Representations indicate concerns that the Design and Access Statement is inaccurate about the extent to which neighbour consultations have taken place. However, neighbour notification has taken place as a part of the application process, and site notices have been posted. I am satisfied that proper publicity about the application has occurred.

Planning Obligations

- 8.25 The Community Infrastructure Levy Regulations 2010 have introduced the requirement for all local authorities to make an assessment of any planning obligation in relation to three tests. If the planning obligation does not pass the tests then it is unlawful. The tests are that the planning obligation must be:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

In bringing forward my recommendations in relation to the Planning Obligation for this development I have considered these requirements. The Planning Obligation Strategy (2010) provides a framework for expenditure of financial contributions collected through planning obligations. The applicants have indicated their willingness to enter into a S106 planning obligation in accordance with the requirements of the Strategy and relevant Supplementary Planning Documents. The proposed development triggers the requirement for the following community infrastructure:

Open Space

- 8.26 The Planning Obligation Strategy requires that all new residential developments contribute to the provision or

improvement of public open space, either through provision on site as part of the development or through a financial contribution for use across the city. The proposed development requires a contribution to be made towards open space, comprising outdoor sports facilities, indoor sports facilities, informal open space and provision for children and teenagers. The total contribution sought has been calculated as follows.

- 8.27 The application proposes the erection of 1 three-bedroom maisonette and 2 two-bedroom maisonettes. A house or flat is assumed to accommodate one person for each bedroom, but one-bedroom flats are assumed to accommodate 1.5 people. Contributions towards provision for children and teenagers are not required from one-bedroom units. The totals required for the new buildings are calculated as follows:

Outdoor sports facilities					
Type of unit	Persons per unit	£ per person	£per unit	Number of such units	Total £
studio	1	238	238		
1 bed	1.5	238	357		
2-bed	2	238	476	2	952
3-bed	3	238	714	1	714
4-bed	4	238	952		
Total					1666

Indoor sports facilities					
Type of unit	Persons per unit	£ per person	£per unit	Number of such units	Total £
studio	1	269	269		
1 bed	1.5	269	403.50		
2-bed	2	269	538	2	1076
3-bed	3	269	807	1	807
4-bed	4	269	1076		
Total					1883

Informal open space					
Type of unit	Persons per unit	£ per person	£per unit	Number of such	Total £

				units	
studio	1	242	242		
1 bed	1.5	242	363		
2-bed	2	242	484	2	968
3-bed	3	242	726	1	726
4-bed	4	242	968		
Total					1694

Provision for children and teenagers					
Type of unit	Persons per unit	£ per person	£per unit	Number of such units	Total £
studio	1	0	0		0
1 bed	1.5	0	0		0
2-bed	2	316	632	2	1264
3-bed	3	316	948	1	948
4-bed	4	316	1264		
Total					2212

8.28 Subject to the completion of a S106 planning obligation to secure the requirements of the Planning Obligation Strategy (2010) and the Cambridge City Council Open Space Standards Guidance for Interpretation and Implementation (2010), I am satisfied that the proposal accords with Cambridgeshire and Peterborough Structure Plan (2003) policies P6/1 and P9/8, Cambridge Local Plan (2006) policies 3/8 and 10/1 and the Planning Obligation Strategy 2010 and the Cambridge City Council Open Space Standards Guidance for Interpretation and Implementation (2010)

Community Development

8.29 The Planning Obligation Strategy (2010) requires that all new residential developments contribute to community development facilities, programmes and projects. This contribution is £1256 for each unit of one or two bedrooms and £1882 for each larger unit. The total contribution sought has been calculated as follows:

Community facilities			
Type of unit	£per unit	Number of such units	Total £
1 bed	1256		
2-bed	1256	2	2512
3-bed	1882	1	1882
4-bed	1882		
Total			4394

8.30 Subject to the completion of a S106 planning obligation to secure the requirements of the Planning Obligation Strategy (2010), I am satisfied that the proposal accords with Cambridgeshire and Peterborough Structure Plan (2003) policies P6/1 and P9/8, Cambridge Local Plan (2006) policies 5/14 and 10/1 and the Planning Obligation Strategy 2010.

Waste

8.31 The Planning Obligation Strategy (2010) requires that all new residential developments contribute to the provision of household waste and recycling receptacles on a per dwelling basis. As the type of waste and recycling containers provided by the City Council for houses are different from those for flats, this contribution is £75 for each house and £150 for each flat. The total contribution sought has been calculated as follows:

Waste and recycling containers			
Type of unit	£per unit	Number of such units	Total £
House	75		
Flat	150	3	450
Total			450

8.32 Subject to the completion of a S106 planning obligation to secure the requirements of the Planning Obligation Strategy (2010), I am satisfied that the proposal accords with Cambridgeshire and Peterborough Structure Plan (2003) policies P6/1 and P9/8, Cambridge Local Plan (2006) policies 3/7, 3/12 and 10/1 and the Planning Obligation Strategy 2010.

Monitoring

- 8.33 The Planning Obligation Strategy (2010) requires that all new residential developments contribute to the costs of monitoring the implementation of planning obligations. The costs are calculated according to the heads of terms in the agreement. The contribution sought will be calculated as £150 per financial head of term and £300 per non-financial head of term. Contributions are therefore required on that basis.

Planning Obligations Conclusion

- 8.34 It is my view that the planning obligation is necessary, directly related to the development and fairly and reasonably in scale and kind to the development and therefore the Planning Obligation passes the tests set by the Community Infrastructure Levy Regulations 2010.

9.0 RECOMMENDATION

1. APPROVE subject to the satisfactory completion of the s106 agreement by 11 October 2013 and subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In accordance with the requirements of section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the approved plans as listed on this decision notice.

Reason: In the interests of good planning, for the avoidance of doubt and to facilitate any future application to the Local Planning Authority under Section 73 of the Town and Country Planning Act 1990.

3. 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, type of jointing shall be agreed in writing with the local planning authority. The quality of finish and materials incorporated in any approved sample panel(s), which shall not be demolished prior to completion of development, shall be maintained throughout the development.

Reason: In the interests of the visual amenity of the Conservation Area and to ensure that the quality and colour of the detailing of the brickwork/stonework and jointing is acceptable and maintained throughout the development. (Cambridge Local Plan 2006 policies 3/12 and 4/11)

4. No roofs shall be constructed until full details of the type and source of roof covering materials and the ridge, eaves and hip details, if appropriate, have been submitted to the local planning authority as samples and approved in writing by the local planning authority. Roofs shall thereafter be constructed only in accordance with the approved details.

Reason: To avoid harm to the special interest of the Conservation Area. (Cambridge Local Plan 2006, policy 4/11)

5. Prior to the commencement of development, large scale drawings of details of new sills, lintels, jambs, transoms, mullions, thresholds, etc. shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: In the interests of the visual amenity of the Conservation Area. (Cambridge Local Plan 2006 policies 3/12 and 4/11).

6. Full details, in terms of materials, fixing, surface finish & colour, of all new metalwork [stairs, balustrades, grilles, railings, brackets, window frames, columns, etc.] are to be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be undertaken in accordance with the agreed details unless the Local Planning Authority agrees to any variation in writing.

Reason: To avoid harm to the special interest of the Conservation Area. (Cambridge Local Plan 2006, policy 4/11).

7. Except with the prior written agreement of the local planning authority no construction work or demolition shall be carried out or plant operated other than between the following hours: 0800 hours to 1800 hours Monday to Friday, 0800 hours to 1300 hours on Saturday and at no time on Sundays, Bank or Public Holidays.

Reason: To protect the amenity of the adjoining properties. (Cambridge Local Plan 2006 policy 4/13)

8. Except with the prior written agreement of the local planning authority, there should be no collection or deliveries to the site during the demolition and construction stages outside the hours of 0700 hrs and 1900 hrs on Monday - Saturday and there should be no collections or deliveries on Sundays or Bank and public holidays.

Reason: Due to the proximity of residential properties to this premises and that extensive refurbishment will be required, the above conditions are recommended to protect the amenity of these residential properties throughout the redevelopment in accordance with policies 4/13 and 6/10 of the Cambridge Local Plan (2006)

9. Before the development/use hereby permitted is commenced, a scheme for the insulation of the building(s) and/or plant in order to minimise the level of noise emanating from the said building(s) and/or plant shall be submitted to and approved in writing by the local planning authority and the scheme as approved shall be fully implemented before the use hereby permitted is commenced.

Reason: To protect the amenity of nearby properties (Cambridge Local Plan 2006 policy 4/13)

10. Before the development/use hereby permitted is commenced, details of equipment for the purpose of extraction and/or filtration of fumes and or odours shall be submitted to and approved in writing by the local planning authority. The approved extraction/filtration scheme shall be installed before the use hereby permitted is commenced.

Reason: To protect the amenity of nearby properties.
(Cambridge Local Plan 2006 policy 4/13)

11. The units hereby permitted shall not be occupied until the cycle parking and waste storage facilities shown in the approved drawings have been put in place in full. These facilities shall be retained permanently, and the space assigned to waste and cycle storage shall not be used for any other purposes.

Reason: To protect the amenity of the adjoining properties, and to ensure appropriate waste and cycle storage. (Cambridge Local Plan 2006 policies 3/4, 3/14 and 8/6)

12. The units hereby approved shall not be occupied until a management plan for the security of the rear yard has been submitted to, and approved in writing by, the local planning authority. The management plan shall indicate the measures to be adopted to secure the yard area, and the mechanisms to ensure these measures are effective. Occupation of the residential units shall be only in accordance with the agreed management plan.

Reason: To protect the amenity of the adjoining properties, and to minimise the threat or perceived threat of crime, and protect community safety. (Cambridge Local Plan 2006 policies 3/4, 3/7 and 3/12)

13. No work shall start on the application site until full detailed landscape proposals for the roof garden, to include detailed planting plans (including plant schedule with size, spacing and densities of proposed plants) and all hard surfacing materials, furniture, boundary treatments, lighting etc. are submitted to and approved in writing by the Local Planning Authority.

Reason: To protect the character of the surrounding area.
(Cambridge Local Plan 2006 3/4.)

INFORMATIVE: To satisfy standard conditions relating to Noise Insulation, the noise level from all plant and equipment, vents etc (collectively) associated with this application should not raise the existing background level (L90) by more than 3 dB(A) both during the day (0700 to 2300 hrs over any one hour period) and night time (2300 to 0700 hrs over any one 5 minute period), at the boundary of the premises subject to this application and having regard to noise sensitive premises. Tonal/impulsive noise frequencies should be eliminated or at least considered in any assessment and should carry an additional 5 dB(A) correction. This is to guard against any creeping background noise in the area and prevent unreasonable noise disturbance to other premises.

It is recommended that the agent/applicant submits a noise prediction survey/report in accordance with the principles of BS4142: 1997 'Method for rating industrial noise affecting mixed residential and industrial areas' or similar. Noise levels shall be predicted at the boundary having regard to neighbouring residential premises.

Such a survey / report should include: a large scale plan of the site in relation to neighbouring premises; noise sources and measurement / prediction points marked on plan; a list of noise sources; details of proposed noise sources / type of plant such as: number, location, sound power levels, noise frequency spectrums, noise directionality of plant, noise levels from duct intake or discharge points; details of noise mitigation measures (attenuation details of any intended enclosures, silencers or barriers); description of full noise calculation procedures; noise levels at a representative sample of noise sensitive locations and hours of operation.

Any report shall include raw measurement data so that conclusions may be thoroughly evaluated and calculations checked.

INFORMATIVE: Housing Health & Safety Rating System (HHSRS). The Housing Act 2004 introduces the Housing Health & Safety Rating System as a way to ensure that all residential premises provide a safe and healthy environment to any future occupiers or visitors.

Each of the dwellings must be built to ensure that there are no unacceptable hazards for example ensuring adequate fire precautions are installed; all habitable rooms have adequate lighting and floor area etc.

The applicant/agent is advised to contact housing standards at Mandela House, 4 Regent Street, Cambridge and Building Control concerning fire precautions, means of escape and the HHSRS.

Following implementation of any Permission issued by the Planning Authority in regard to this proposal the residents of the new dwelling will not qualify for Residents' Permits (other than visitor permits) within the existing Residents' Parking Schemes operating on surrounding streets. This should be brought to the attention of the applicant, and an appropriate informative added to any Permission that the Planning Authority is minded to issue with regard to this proposal.

2. Unless prior agreement has been obtained from the Head of Planning, in consultation with the Chair and Spokesperson of this Committee to extend the period for completion of the Planning Obligation required in connection with this development, if the Obligation has not been completed by 11 October 2013, or if Committee determine that the application be refused against officer recommendation of approval, it is recommended that the application be refused for the following reason(s):

The proposed development does not make appropriate provision for public open space, community development facilities, waste facilities, waste management and monitoring in accordance with Cambridge Local Plan 2006 policies 3/7, 3/8, 3/12, 5/5, 5/14, 8/3 and 10/1, Cambridgeshire and Peterborough Structure Plan 2003 policies P6/1 and P9/8 and the Cambridgeshire and Peterborough Minerals and Waste Development Plan (Core Strategy Development Plan Document July 2011) policy CS16 and as detailed in the Planning Obligation Strategy 2010, the Open Space Standards Guidance for Interpretation and Implementation 2010, Cambridgeshire and Peterborough Waste Partnership (RECAP): Waste Management Design Guide Supplementary Planning Document 2012

3. In the event that the application is refused, and an Appeal is lodged against the decision to refuse this application, delegated authority is sought to allow officers to negotiate and complete the Planning Obligation required in connection with this development

Determined under delegated powers by: