

Application Number	10/0764/FUL	Agenda Item	
Date Received	29th July 2010	Officer	Mr Tony Collins
Target Date	23rd September 2010		
Ward	Trumpington		
Site	28 Panton Street Cambridge Cambridgeshire CB2 1HP		
Proposal	Proposed change of use of one existing office building to Class B1(a) offices and D1 non-residential education (in the alternative).		
Applicant	C/O Agent Justin Bainton Januarys Chartered Surveyors York House Dukes Court 54-62 Newmarket Road Cambridge CB5 8DZ		

1.0 SITE DESCRIPTION/AREA CONTEXT

- 1.1 The application site is an L-shaped plot lying to the north of Pemberton Terrace. It is bounded to the east by Panton Street, and to the west by St Eligius Place, and the L-shaped footprint of the site surrounds the dwelling to the north (26 Panton Street) on two sides. The original building is a large brick-built three-storey house dating from the later part of the nineteenth century, set slightly back from the footway. Substantial extensions to the rear have subsequently been added. The rear garden contains a cycle shed and a garage, which opens on to St Eligius Place opposite No. 3. There is a side gate from the garden through the high brick wall which separates the curtilage from the footway on Pemberton Terrace.
- 1.2 The surrounding area is a mixture of private dwellings, former houses now used as student accommodation, and a substantial number of educational uses, including private and state schools, nurseries and private tutorial colleges

1.3 The site falls within the City of Cambridge Conservation Area No.1 (Central). The building is not listed, nor is it a Building of Local Interest. There are trees within and immediately adjacent to the site, but none is the subject of a tree preservation order at present. The site falls within the controlled parking zone.

2.0 THE PROPOSAL

2.1 The application seeks permission for use as Class B1(a) (office) or Class D1 (education) in the alternative. This would allow use for either purpose without further planning permission for ten years. At the end of that period, the use then current would become the sole lawful use. It is intended that the premises would be occupied by a private tutorial college, Mander Portman Woodward (MPW), in conjunction with their other premises on Brookside. The occupiers have indicated that they would not object to a condition limiting use to that specific user. The application states that MPW currently accepts up to 150 students on its Brookside site, and that it does not seek an increase in student numbers, but does require an annexe to accommodate specialist teaching facilities.

2.2 The application is accompanied by a Design and Access Statement.

3.0 SITE HISTORY

Reference	Description	Outcome
72/0665	Change of use from offices to teaching	Withdrawn
86/0915	Continued use of lower ground floor for offices	Approved with conditions
98/0232	Change of use from offices (Class B1) to Education (Class D1)	Approved with conditions
99/0043	Variation of Condition 2 of 98/0232	Approved with conditions
00/0122	Variation of condition 1 of 99/0043 to allow educational (Class D1) use until 01.04.2010	Approved with conditions
10/0284	Variation of condition 1 of 99/0043 to allow educational (Class D1) use	Withdrawn

until 24.12.2019

4.0 PUBLICITY

Advertisement:	No
Adjoining Owners:	Yes
Site Notice Displayed:	No

5.0 POLICY

5.1 Central Government Advice

Planning Policy Statement 1: Delivering Sustainable Development (2005)
Planning Policy Statement 4: Planning for Sustainable Economic Growth (2009)
Planning Policy Statement 5: Planning for the Historic Environment (2010)
Circular 11/95 – The Use of Conditions in Planning Permissions

5.2 Cambridge Local Plan 2006

3/4 Responding to context
3/7 Creating successful places
4/11 Conservation Areas
4/13 Pollution and amenity
5/3 Housing lost to other uses
7/2 Selective management of the Economy
7/11 Language schools
8/2 Transport impact
8/6 Cycle parking
8/10 Off-street car parking

6.0 CONSULTATIONS

Cambridgeshire County Council (Engineering)

6.1 No objection. Additional cycle storage required.

Historic Environment Manager

6.2 No objection; no external alterations proposed, therefore little or no impact on the character and appearance of the Conservation Area.

6.3 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:

24 Panton Street
26 Panton Street
1 St Eligius Place

7.2 The representations can be summarised as follows:

- Increased noise and disturbance
- Increased traffic
- Too many educational uses in area already
- Cycle parking on street
- Students in St Eligius Place
- Rubbish
- MPW would not provide for a local need
- MPW will have more students in the building
- MPW will have a longer working day
- Perse Girls' use was sporadic, but MPW's will not be.
- MPW will use the site during school holiday periods
- The distance to MPW's main building on Brookside is greater than the distance to Perse Girls' site on the opposite side of the road
- Permanent permission for D1 use would open the site to use by any institution at an uncontrolled intensity
- Should revert to existing office use

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. Disabled access
3. Residential amenity
4. Refuse arrangements
5. Highway safety
6. Car and cycle parking
7. Third party representations

Principle of Development

8.2 Consideration of this application requires a careful examination of the planning history, because it is complicated, and has given rise to some misunderstandings.

Planning history

8.3 Permission was granted for change of use of the application building from offices to education under reference 98/0232/FP. Apart from the requirement to commence use within 5 years, four conditions were imposed. These required:

2. Use for educational purposes to be 'only in conjunction with the main school site on Union Road'.
3. The size of the educational establishment not to exceed 550 pupils
4. Satisfactory noise insulation
5. Submission of internal layout plans

8.4 The permission was granted without any limit on the time for which the use could continue.

8.5 Subsequently, under reference 99/0043/VC, an application was made to vary Condition 2 of 98/0232.FP in two ways. Firstly, the words 'by the Perse School for Girls' were inserted before 'only in conjunction with...'. Secondly, the words 'for a limited period until 31st March 2009' were added at the end of the condition. I am unable to discover from existing documents why these

changes were sought, but it is clear that the time limit was inserted at the request of the applicant, and not the local planning authority. The permission was granted. In my view, there was no justification for these two changes, and they could not have been defended as in accordance with Circular 11/95. The reason given for the revised condition (which became Condition 1 of 99/0043/VC) was 'The use of this building as a separate educational establishment would not be acceptable because of the confined nature of the site, the building's position, and lack of parking or dropping-off facilities.' This is identical to the reason given for the original Condition 2 attached to 98/0232/FUL. In my view, the unsuitability of the site for use as a separate educational establishment is an adequate justification for the original condition attached to 98/0232/FP, but provides no justification for either of the variations made under 99/0043/VC.

- 8.6 The following year, under 00/0122/VC, permission to vary the condition was sought again, extending the 'limited period' for which educational use was permitted by one year, until 1st April 2010. This application was permitted, and as before, no reason was given to justify the time limit.
- 8.7 I summarise the key points from this planning history.
- 8.8 The Council's planning concerns about educational use on this site in 1998 were solely about the unsuitability of the building for use as a separate educational establishment (which was the reason for the condition limiting use to that in conjunction with the Perse Girls' main site), and the wish to avoid an overall increase in the intensity of educational use in the locality (the reason for the limit on total numbers at the 'parent' establishment imposed by Condition 3).
- 8.9 The original permission for educational use in 1998 did not impose a time limit on the continuation of that use. The time limit was subsequently added at the instigation of the applicants. No reason for making the use temporary was given at the time of the original permission under 98/0282, nor at the time of either of the variations under 99/0043 or 00/0122.
- 8.10 In my view, B1 office use ceased to be lawful on this site when the educational use permitted under 98/0282/FP commenced.

- 8.11 It is also my view that any contention that B1 use remains lawful is further undermined by the length of time during which D1 use has persisted (twelve years).
- 8.12 The current status of the site in terms of lawful use is problematic.
- 8.13 I turn now to the issue of the two proposed uses sought by this application.

Office use

- 8.14 Although it is extremely doubtful, in my view, that past permission for office use on this site remains valid, I do not consider that the use of the premises as offices would conflict with development plan policy. At some stage in the past, the building was clearly a dwelling. However, Policy EC10 of PPS4 advises that local planning authorities should adopt a positive and constructive approach towards planning applications for economic development. Given the length of time since residential use took place, and the uncertainty about which use, if any, is lawful at the present time, it is my view that policy 5/3, which seeks a return to residential use of former houses subsequently lost to other uses, would not provide a sound or reasonable basis for refusing permission for office use, and that such a refusal would be in conflict with the advice in PPS4.
- 8.15 I acknowledge that office use might result in a greater number of adults travelling to and from the site each day than educational use, and that such employees might choose to use cars. However, in my view, the restrictions of the controlled parking zone, and the severe traffic congestion in this area at the beginning of the working day would be strong incentive to use means of transport other than the private car. I do not consider that transport impact would constitute a reason to refuse permission for office use.
- 8.16 Policy 7/2 of the Local Plan places restrictions on development for Class B1 use, including changes of use. To conform to this policy, any future Class B1 user would either have to be providing essential services to the city or the sub-region, or be an established use in the city. In my view a condition is necessary to ensure that in the event of a change to Class B1 use, such requirements are fulfilled.

8.17 Subject to such a condition, in my view, office use of the premises would be in accordance with Cambridge Local Plan (2006) policies 3/4, 7/2 and 8/2, and government guidance in PPS4.

Educational use

8.18 Permanent permission for educational use was granted for this site in 1998, and a time limit on this use was only subsequently added (unjustifiably in my view) at the request of applicants. The site has been in education use for twelve years. I acknowledge that the concentration of education uses in this area creates tensions, but I do not consider that this provides any basis for denying permission for a use which has been in place for a significant time and whose continuation was not initially limited by the local planning authority. I am not aware that the educational use of this specific site has given rise to any planning issues between 1998 and 2009.

8.19 Many neighbour concerns centre on the differences in the use of the building which would result from use by MPW, a private tutorial college, rather than the Perse Girls' School. These concerns can be summarized as follows.

- MPW will have more students in the building
- MPW will have a longer working day
- Perse Girls' use was sporadic, but MPW's will not be.
- MPW will use the site during school holiday periods
- The distance to MPW's main building on Brookside is greater than the distance to Perse Girls' site on the opposite side of the road

8.20 The number of students using the building was not limited by previous permissions. The main concern in this respect appears to be in connection with noise. In my view, provided that noise insulation is sufficient, the possibility of more students being in the building is not a sufficient reason to refuse the application.

8.21 In my view, the different working hours of a private tutorial college are not a reason to refuse the application. The principle of educational use has been accepted on this site, and no restriction of hours has previously been sought or granted. I acknowledge that use by students late in the evening, or on

Saturday afternoons or Sundays would introduce activity into a residential area which is otherwise quieter at these times, and I recommend a condition to protect residents against such use. I do not consider that use up until 6pm is unreasonable; indeed the 6pm finish indicated in the Design and Access Statement may be helpful in staggering the exodus of students from the area at the end of the working day. I do not consider that it would be reasonable to limit education use to traditional school term times.

8.22 I do not agree with the view that the greater distance of MPW's main site from the application site makes the use unacceptable. Movement between this site and MPW's main site by foot or cycle would take only a few minutes. I do not consider that there is a danger that significant trips by car to drop students off or pick them up would be generated at this site, nor that staff trips to or from this site by car would result. The original permission under 98/0232/FP prohibited use as a separate educational establishment because the buildings and the site lacked facilities, including car parking space and drop-off space, to enable it to operate in this way. I remain of the view that while educational use on this site is appropriate, it should only be used as an annexe of a main site in the immediate vicinity, for these reasons. In my view, this does not require a condition limiting use to MPW, but it does require a condition restricting use to that in conjunction with a main educational site within the area bounded by Brookside, the Botanic Gardens, Hills Road and Lensfield Road.

8.23 I am also of the view that use of this site for educational use should not increase the level of overall educational activity in the area. (As I have indicated above in Paragraph 2.1, the application does not propose an increase in MPW's overall student numbers, but seeks to use this building for specialist teaching accommodation) At the time of the original permission a condition prohibited the Perse Girls' from increasing its overall student numbers as a result of using this site. I recommend a condition requiring any user to demonstrate to the satisfaction of the local planning authority that their overall roll in the neighbourhood has not increased as a result of the use of this building, and enabling the local planning authority to monitor this.

- 8.24 Use of this site for pre-school or primary children is not appropriate in my view, because even if it were as an annexe to another such institution, the children would have to be delivered to and collected from this site by parents, which might exacerbate congestion and pedestrian/vehicle conflicts. I recommend a condition to prevent use by children below Year 7.
- 8.25 The use of the site by a language school would conflict with policy 7/11 of the local plan, and I recommend a condition to prevent this.
- 8.26 Subject to the conditions I recommend, in my view, educational use of the premises would be in accordance with Cambridge Local Plan (2006) policies 3/4, and 8/2, and government guidance in PPS4.

Disabled access

- 8.27 The building does not have inclusive access. The thresholds include steps, and there is no lift. Given the nature of the building, this situation is difficult to remedy. This does not involve a conflict with local plan policy. Future occupiers will be subject to other regulatory regimes and the provisions of the DDA.
- 8.28 In my opinion the proposal does not conflict with Cambridge Local Plan (2006) policy in respect of disabled access.

Residential Amenity

- 8.29 The proposal, which involves no additions to the building, has no implications for neighbours' light, outlook, or privacy.
- 8.30 Representations from neighbours express serious concerns about the impact of continued educational use in terms of noise inside and outside the building, disturbance from flows of students, conflicts with cycle movements across the footway, discourteous behaviour such as sitting on front walls in the street, smoking, and rubbish.
- 8.31 I acknowledge these concerns, and I accept that occupation of the building by a private tutorial college would not replicate exactly the pattern or intensity of use which has prevailed

during Perse Girls' tenancy. However, I do not consider that neighbour amenity issues constitute a reason for refusal of the application, for the following reasons.

- The application does not propose a level of activity markedly more noisy or disturbing than has previously taken place.
- The size and configuration of the building place limits on the scale of educational use which could occur within it.
- The principal rooms within the building with potential for student use are not adjacent to the neighbouring residential uses.
- The rear garden of 26 Panton Street is largely screened from the outdoor space at 28 Panton Street by the toilet and staffroom block.
- I recommend a condition requiring that MPW, or any future educational user, submit a management plan to the local planning authority, which addresses the issues of students congregating around the building, litter, smoking and inconsiderate use of cycles.
- I recommend a condition to ensure adequate noise insulation.
- As indicated above, I recommend conditions to prevent any activity on the site involving students during the evenings or at weekends.
- In my view, many of the understandable concerns about the impact of educational use here (traffic congestion, rubbish, students sitting on front garden walls, inconsiderate cycle use) arise from the overall level of educational activity in the area, which will not be diminished by the refusal of this application. I am not convinced that the educational use of this specific site has significantly contributed to these problems, nor that it would do so if the application were to be approved.

8.32 I acknowledge that respondents have serious reservations about the impact on amenity of the educational use proposed. However, it is my view that many of these reservations can be

addressed by the conditions I recommended. I do not consider that any of the other reservations constitute a reasonable basis for refusing the application. In my opinion the proposal adequately respects the residential amenity of its neighbours and I consider that it is compliant with and Cambridge Local Plan (2006) policy 3/4.

Refuse Arrangements

- 8.33 Provision for the storage of waste and recycling is not specified in the application. It seems likely that waste generation on the site will not be very different from what has been the case previously, but I acknowledge that the arrangements for its storage and handling may have to be different. There is, in my view, adequate space in the rear courtyard area to store bins, but I recommend a condition to ensure that this issue is properly addressed.
- 8.34 In my opinion the proposal is compliant with Cambridge Local Plan (2006) policy 3/12.

Highway Safety

- 8.35 The highway authority has raised no concerns about highway safety. I do not consider that use of the Pemberton Terrace gateway by students with cycles presents any greater threat to pedestrians than the use of this gateway in previous uses.
- 8.36 In my opinion the proposal is compliant with Cambridge Local Plan (2006) policy 8/2.

Car and Cycle Parking

- 8.37 One car parking space is provided within a garage, although this is currently used for storage. The application does not propose additional car parking. Government guidance and local plan policy both encourage a reduction in non-residential car parking space. In my view, office use in particular might lead to a desire for additional on-site car parking space, and this should be prevented by condition.
- 8.38 I concur with the advice of the highway authority that this application should be considered as a change of use (principally because it allows the possibility of office use, which I do not

consider to be the present lawful use). Since uses in the alternative are proposed, the Council's cycle parking standards require cycle parking provision to the higher of the levels required by the two uses. Office use of the floorspace in the building would require 17 spaces. On the basis that each of the teaching or study rooms might be occupied by eight students under educational use, I estimate that up to 48 students might be using the building. The cycle parking standards would therefore require 36 spaces. The application proposes 25. This is not adequate in my view, and I recommend a condition to ensure that the required total is provided in the courtyard.

8.39 Neighbours have raised concerns about possible conflicts between cyclists entering and leaving the site and other users of the footway. In my view, the narrowness of the entrance to the site from Pemberton Terrace will compel users to enter and exit in a cautious manner. I do not consider this issue to be a reason to refuse the application.

8.40 In my opinion the proposal is compliant with Cambridge Local Plan (2006) policies 8/6 and 8/10.

Third Party Representations

8.41 I have addressed the issues raised under the headings of the principle of development, residential amenity, and highway safety.

9.0 CONCLUSION

9.1 Applicants and objectors in this case both assume that the lawful use of this site is for Class B1 offices. I do not share this view, and I consider it more likely that if the site has an existing lawful use it is for Class D1 school use. However, I have considered the two proposed uses on their merits.

9.2 Representations on this application contend that permission for educational use on this site was only granted temporarily, and that this application is a 'backdoor' attempt to make such use permanent. In my view, neither of these assertions is correct. The original permission for educational use under 98/0232/FP was not temporary. The Council did not seek a time limit to that use, nor give any reason for such a time limit, either then, or at any subsequent time. The present application does not in any

way hide its intentions; it seeks the possibility of either office or educational use. I do not consider that there is any basis for requiring a further assessment through the planning process before either of these uses becomes the sole lawful use.

- 9.3 I acknowledge that neighbours have serious concerns about the proposed educational use, but I believe these can be sufficiently addressed by conditions which limit this site's use to that of an annexe to a nearby main site, prohibit occupation by a language school, exclude use by primary age children, prevent an overall intensification of educational use in the area, restrict student hours, and require the submission of a management plan to address the issues which neighbours fear may harm their residential amenity. Subject to such conditions, I do not consider that there is a basis in development plan policy for the refusal of this application.

10.0 RECOMMENDATION

APPROVE, 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 Class D1 use hereby permitted shall be a school, college, or similar educational provider only, and shall not be a language school, nor any other use within Class D1.

Reason: use as a language school would be in conflict with local plan policy 7/12, which prohibits any new such use, and other uses within Class D1 would raise different planning issues which would need to be assessed through an application.

3. Class D1 educational use shall take place only as an annexe to a main educational site elsewhere within the area bounded by the centre lines of Brookside, Lensfield Road, and Hills Road, and the northern boundary of the University Botanic Gardens.

Reason: The application site is unsuitable, because of its configuration, lack of outdoor space, and absence of car parking or drop-off space, to operate as an independent educational institution. (Cambridge Local Plan 2006 policies 3/4, 3/7 and 8/2)

4. Any Class D1 school or college user of the site shall provide the local planning authority before occupation with an accurate record of its student numbers in this locality prior to any use of the application site. From the time of occupation, any user shall keep an accurate student roll for all its sites in the locality, including the application site, and shall make that information available to the local planning authority on demand. The total student roll of the user in the locality shall not increase by more than 10% during its use of the application site..

Reason: To avoid impacts on traffic and the character of the area from increased overall educational use. (Cambridge Local Plan 2006 policies 3/4 and 8/2)

5. Class D1 educational use on this site shall be restricted to students or pupils in Year 7 (or the equivalent year in any replacement classification by the Department for Education) or above only.

Reason: The site does not have suitable space for young children to be dropped off or collected. (Cambridge Local Plan 2006 policy 8/2)

6. No students or pupils shall use the building between the hours of 1900 and 0700 on weekdays, before 0700 or after 1330 on Saturdays, or at all on Sundays or public holidays.

Reason: To protect the residential amenity of neighbouring occupiers. (Cambridge Local Plan 2006 policy 3/4)

7. No occupation for Class D1 educational use shall take place until a management plan for educational use which details the measures to be taken to address the following issues has been submitted to, and approved in writing by, the local planning authority.

- student arrival and departure
- student use of the site during breaks from study

- smoking
- courtesy to neighbours
- litter
- safe use and storage of cycles

The site shall be used only in accordance with the approved management plan, which shall not be altered without the written agreement of the local planning authority.

Reason: To prevent harm to the residential amenity of neighbouring occupiers. (Cambridge Local Plan 2006 policy 3/4)

8. No occupation shall take place until details of arrangements for waste storage and collection have been submitted to and approved in writing by the local planning authority. Such arrangements shall be put in place before occupation and maintained thereafter.

Reason: To protect the residential amenity of neighbours and to ensure adequate management of the site. (Cambridge Local Plan 2006 policies 3/4 and 3/7)

9. Occupation for Class B1 use shall be limited to organisations meeting the criteria set out in categories (a), (b), (c) and (d) of policy 7/2 of the Cambridge Local Plan 2006, or established bodies, as defined in that policy and its footnotes and associated text. No occupation for Class B1 use shall take place until the prospective occupier has submitted details of its activities, and received confirmation in writing from the local planning authority that these criteria are satisfied.

Reason: To ensure that any B1 user has an essential need for a Cambridge location, and hence balance the growth of the local economy with the protection of the environment. (Cambridge Local Plan 2006 policy 7/2)

10. No occupation in either Class B1 or Class D1 shall commence until details of facilities for the covered, secured parking of bicycles for use in connection with the development hereby permitted have been submitted to and approved by the local planning authority in writing. The approved facilities shall be provided in accordance with the approved details before use of the development commences.

Reason: To ensure appropriate provision for the secure storage of bicycles. (Cambridge Local Plan 2006 policy 8/6)

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 additional car parking space shall be laid out on the site.

Reason: To avoid encouraging additional trips to and from the site by private car (Cambridge Local Plan 2006 policies 8/2 and 8/10)

12. No occupation in either use shall take place until details of sound insulation have been submitted to and approved in writing by, the local planning authority.

Reason: To ensure no unacceptable impact on the amenity of neighbouring occupiers. (Cambridge Local Plan 2006 policies 3/4 and 4/13)

Reasons for Approval

1. This development has been approved, conditionally, because subject to those requirements it is considered to generally conform to the Development Plan, particularly the following policies:

Cambridge Local Plan (2006): 3/4, 3/7, 4/11, 4/13, 5/3, 7/2, 7/11,8/2, 8/6, 8/10;

2. The decision has been made having had regard to all other material planning considerations, none of which was considered to have been of such significance as to justify doing other than grant planning permission.

These reasons for approval can be a summary of the reasons for grant of planning permission only. For further details on the decision please see the officer report online at www.cambridge.gov.uk/planningpublicaccess or visit our Customer Service Centre, Mandela House, 4 Regent Street, Cambridge, CB2 1BY between 8am to 6pm Monday to Friday.

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Under Section 100D of the Local Government Act 1972, the following are “background papers” for each report on a planning application:

1. The planning application and plans;
2. Any explanatory or accompanying letter or document from the applicant;
3. Comments of Council departments on the application;
4. Comments or representations by third parties on the application as referred to in the report plus any additional comments received before the meeting at which the application is considered; unless (in each case) the document discloses “exempt or confidential information”
5. Any Structure Plan, Local Plan or Council Policy Document referred to in individual reports.

These papers may be inspected by contacting John Summers (Ext.7103) in the Planning Department.