

<b>Application Number</b>	15/0396/S73	<b>Agenda Item</b>	
<b>Date Received</b>	2nd March 2015	<b>Officer</b>	Mr Tony Collins
<b>Target Date</b>	27th April 2015		
<b>Ward</b>	Market		
<b>Site</b>	The Varsity Hotel And Spa 24 Thompsons Lane Cambridge Cambridgeshire CB5 8AQ		
<b>Proposal</b>	S73 application to remove the prohibition of restaurant, cafe, bar use on the sixth floor - removal of condition 3 of planning permission 09/0447/FUL.		
<b>Applicant</b>	Mr Roberto Pintus The Varsity Hotel And Spa 24 Thompsons Lane Cambridge Cambridgeshire CB5 8AQ		

SUMMARY	<p>The development accords with the Development Plan for the following reasons:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> It would not have a significant impact on residential amenity (when compared to the restaurant use on lower floors already permitted)</li> <li><input type="checkbox"/> It would not have a significant impact on the highway network or highway safety (when compared to the restaurant use on lower floors already permitted)</li> </ul>
RECOMMENDATION	APPROVAL

## **1.0 SITE DESCRIPTION/AREA CONTEXT**

- 1.1 The application site is occupied by a seven-storey building. Its erection as a residential block was approved by Planning Committee under C/03/0808/FP, with a modified design subsequently approved under 04/1270/FUL. A number of non-material amendments to this design have been approved by officers; they mostly involve minor changes to window

configuration or the elimination of approved windows. There has been no change to the height of the building as originally approved.

- 1.2 The Glassworks gym and its associated restaurant occupy a converted warehouse building which adjoins the application building to the north. Other than this, the area to the north, east and south of the site is predominantly residential. Nineteenth century and early twentieth century terraced houses predominate, some occupied by individuals and families, others in use by colleges for student accommodation. On the opposite side of Thompson's Lane a site for student accommodation for Trinity Hall is under development. To the south-west and west are the relatively modern buildings of the Quayside development, in a mixture of residential and commercial uses. The south face of the building directly abuts the service area of Maltings Yard, which serves bars and restaurants in Half Moon Yard and facing the river on Quayside.
- 1.3 Thompson's Lane itself, which runs along the eastern side of the application site, is a narrow street. The carriageway width in front of the application site is 4.5m, the distance between buildings 7m. Normally, the street forms the only vehicle access to the residential enclave south-west of Jesus Green (Park Parade, New Park Street, St John's Road, Beaufort Place, Thompson's Lane, Portugal Street and Park Street) and the service area in Maltings Yard. However, at present, Thompson's Lane is closed to vehicles because of construction work on the student accommodation site referred to in the previous paragraph, and access is via Park Street.
- 1.4 The site falls within the City of Cambridge Conservation Area No.1 (Central) and is within the controlled parking zone (CPZ).

## **2.0 BACKGROUND**

- 2.1 Permission was granted under 08/1610/FUL for change of use of all but the uppermost floor of the building from residential (Use Class C3) (Use Class C1) to hotel. Permission was subsequently granted under 09/0447/FUL (in June 2009) for change of use of the top floor from residential to hotel. Each of these applications was approved subject to a condition prohibiting the inclusion within the hotel use of any bar café or restaurant.

- 2.2 Following the approval of 08/1610/FUL, which relates to the ground, first, second, third, fourth and fifth floors, three applications were made to delete the condition from that permission prohibiting restaurant use. The first of these, 09/0344/S73, was refused by Planning Committee contrary to officer recommendation on 27<sup>th</sup> May 2009. Two further applications followed, (09/0498/S73 and 09/0775/S73) each of which sought, by providing additional evidence, to demonstrate that a restaurant within the hotel would not have a harmful impact. 09/0498/S73 was also refused, but 09/0775/S73 was approved with a number of conditions. A subsequent decision by the Planning Inspectorate (in February 2010) allowed an appeal which had been lodged against the refusal of 09/0334/S73. The Inspector declined to adopt the majority of the conditions which the Council had imposed on 09/0775/S73; he imposed only two conditions: that no bar or café was permitted, and that details of fume extract and ventilation equipment must be approved by the local planning authority.

### **3.0 THE PROPOSAL**

- 3.1 The application seeks to remove Condition 3 from the permission (for hotel use on the sixth floor) granted under 09/0447. The wording of that condition is as follows:

*The hotel use on the sixth floor hereby permitted shall not include restaurant, café, or bar provision except with the express permission of the local planning authority.*

- 3.2 The reason given for the imposition of this condition was:

*The incorporation of such activities would generate a different pattern of activity from the hotel operation proposed in the application and its attached drawings, whose impact on neighbour amenity would require testing through the planning application process.*

- 3.3 The application is brought to Committee at the request of Coun. Blencowe in order that the significance of changes in planning circumstances since 2009 can be fully considered.

## 4.0 SITE HISTORY since 1980

### 4.1

Reference	Description	Outcome
03/0412/FP	Erection of residential block containing 19 apartments and 9 live/work units	Withdrawn
03/0413/CAC	Demolition of building	Withdrawn
03/0808/FP	Erection of residential block containing 19 apartments	Approved with conditions
03/0809/CAC	Demolition of building	Approved with conditions
04/0105/FUL	Erection of residential block containing 19 apartments (amendments to N and E elevations of scheme approved under 03/0808)	Withdrawn
04/1270/FUL	Erection of residential block containing 19 apartments (amendments to elevations of scheme approved under 03/0808)	Approved with conditions
07/0180/FUL	Modification of EDF electricity substation	Approved with conditions
08/1610/FUL	Change of use from residential to hotel, with two residential units on the top floor	Approved with conditions
09/0344/S73	Variation of Condition of 08/0161/FUL to allow the possibility of a restaurant	Refused; appeal allowed
09/0447/FUL	Change of use of top floor from residential to hotel	Approved with conditions
09/0498/S73	Variation of Condition of 08/0161/FUL to allow the	Refused

09/0775/S73	possibility of a restaurant Variation of Condition 3 of planning permission 08/1610/FUL to allow the possibility of a restaurant	Approved
14/0499/S73	Variation of Condition 2 of planning permission 08/1610/FUL to replace on- site disabled parking by valet parking for disabled guests'.	Refused

4.2 There have also been four applications in the recent past in connection with the installation of public art, but they are not relevant to the present application.

4.3 The Inspector's decision on 09/0344/S73 is attached to this agenda.

## **5.0 PUBLICITY**

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

## **6.0 POLICY**

### **6.1 Central Government Advice**

National Planning Policy Framework 2012  
National Planning Practice Guidance 2014  
Circular 11/95 – The Use of Conditions in Planning Permissions  
(Annex A)

### **6.2 Cambridge Local Plan 2006**

3/1 Sustainable development  
3/4 Responding to context  
3/7 Creating successful places  
4/10 Listed buildings  
4/11 Conservation Areas  
4/13 Pollution and amenity  
6/3 Tourist accommodation

8/2 Transport impact  
8/9 Commercial vehicles and servicing  
8/10 Off-street car parking

### **6.3 Material Considerations: Area Guidelines**

Cambridge Historic Core Conservation Area Appraisal (2006)

### **6.4 Status of Proposed Submission – Cambridge Local Plan**

Planning applications should be determined in accordance with policies in the adopted Development Plan and advice set out in the NPPF. However, after consideration of adopted plans and the NPPF, policies in emerging plans can also be given some weight when determining applications. For Cambridge, therefore, the emerging revised Local Plan as published for consultation on 19 July 2013 can be taken into account, especially those policies where there are no or limited objections to it. However it is likely, in the vast majority of instances, that the adopted development plan and the NPPF will have considerably more weight than emerging policies in the revised Local Plan.

- 6.5 For the application considered in this report, there are no policies in the emerging Local Plan which are of relevance.

## **7.0 CONSULTATIONS**

### **Cambridgeshire County Council (Engineering)**

- 7.1 No comment.

### **Head of Environment and Waste**

- 7.2 No objection. Conditions recommended on construction hours, odour extraction and plant noise.
- 7.3 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.

## **8.0 REPRESENTATIONS**

8.1 Representations objecting to the application have been received from the owners/occupiers of the following addresses:

7 Beaufort Place  
13 Beaufort Place  
29 Beaufort Place  
33 Beaufort Place  
36 Beaufort Place  
38 Beaufort Place  
40 Beaufort Place  
41 Beaufort Place  
49 Beaufort Place  
7 Park Parade  
8 Park Parade  
14 Park Parade  
5 Cornwall Court, Eaton Socon  
81 North End, Meldreth (owner of flat in Beaufort Place)  
2 residents of St John's College

8.2 The representations received can be summarised as follows:

- ☐ exacerbation of obstructions to traffic
- ☐ increased deliveries
- ☐ odour
- ☐ increased loss of privacy
- ☐ traffic
- ☐ increased noise and disturbance
- ☐ increased illegal parking
- ☐ hotel already causes illegal parking
- ☐ Any changes to the building should attempt to mitigate the poor planning decision to allow it, not exacerbate it.

8.3 The owners or occupiers of the following addresses and the proprietors of the following businesses have made representations in support of the application

87 Eastfield  
118 Huntingdon Road  
94 King Street  
18 Madingley Road  
8 Mill Park (Flat 32 Huxley House)  
20 New Park Street

3 North Terrace  
28 Northampton Street,  
14 Richmond Terrace  
14 St John's Road  
25 Willow Walk  
Resident of St John's College  
Catherine Jones Jewellery, 9 Bridge Street  
15 Tenison Manor, Cottenham  
3 - 4 Lundy Court, Rougham Industrial Estate, Bury St  
Edmunds  
St John's Way, St John's Business Estate, Downham  
Market  
Burtons Catering Butchers, Unit 3, Shire Hill Industrial  
Estate, Saffron Walden

8.4 The representations can be summarised as follows.

- ☐ Valuable facility
- ☐ Helpful to the city's economy
- ☐ Not likely to cause increased noise
- ☐ Not likely to cause increased problems from parking or delivery vehicles

8.5 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.

## **9.0 ASSESSMENT**

9.1 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. Residential amenity
3. Transport impact and highway safety
4. Third party representations

### **Principle of development**

9.2 The principle of restaurant use as part of the hotel has been established as acceptable by the Planning Inspector's decision on 09/0344/S73. The only issues which fall to be examined are:



1. Whether restaurant use at sixth floor level, rather than any of the lower floors, would have a significant harmful impact on neighbour amenity.
2. Whether restaurant use at sixth floor, rather than any of the lower floors, would have a significant harmful impact on the highway network and highway safety, and
3. Whether there have been significant changes in planning circumstances since 2009 which are material to this application.

9.3 I deal with the first two of these points under the respective headings below. The main changes in planning circumstances since 2009 are the introduction of the Framework in 2012 and the National Planning Practice Guidance in 2014. I do not consider that these documents raise any principles with which the application might conflict. If anything, the Framework's emphasis on supporting sustainable development, supporting existing business sectors, and avoiding the creation of impediments to growth in Paragraphs 19 and 21 of the Framework lend weight to the applicant's case that the application should be approved.

### **Residential amenity**

- 9.4 The creation of a restaurant at sixth floor level might have impacts on neighbour amenity in four ways: through overlooking, through noise, through odours, and through light pollution. It is likely that restaurant use on any floor would lead to some increase in overlooking when compared to bedroom use, because it would be more intensively used. It would probably also lead to some increase in noise, for the same reason, especially as there are outside terraces. There would probably also be a small increase in the degree of light given out from the relevant floor. I do not consider that any of these three changes would be significant. I do not think odour impact at sixth floor level would be significant, but in any event, I support the environmental health officer's request for a condition to control this. I also recommend a condition to ensure that any flue required for odour extraction does not impinge on the skyline.
- 9.5 Importantly, a planning Inspector has already considered all these impacts for the floors from ground up to five and ruled the likely impact acceptable. I do not consider that the impact of any

of them from the sixth floor would be different from that at the lower floors. It must also be noted that the rooms at sixth floor level are already used regularly as function rooms (which is not prohibited by condition) and I do not consider that there would be any noticeable difference in the impact of restaurant use as compared to function room use.

- 9.6 In my view, restaurant use at sixth floor level would have no different impact from restaurant use at fifth floor level, and is in accordance with policies 3/4 and 4/13 of the Cambridge Local Plan 2006.

### **Transport impact**

- 9.7 It has already been established by the Inspector's decision on 09/0344/S73 that restaurant use as a part of the hotel would not cause any unacceptable harm to the highway network or to highway safety. I do not consider that the floor level at which restaurant use takes place is likely to make any significant difference to this issue. In my view, the proposal is in accordance with policies 8/2 and 8/9 of the Cambridge Local Plan 2006.

### **Third Party Comments**

- 9.8 Many of the third party comments opposed to the development are concerns about the form of the existing hotel or its present impact on traffic or the character of the area. I do not consider that any of the suggestions that a restaurant on the sixth floor would have more harmful impacts than the restaurant use already permitted on other floors are well-founded.

## **10.0 CONCLUSION**

- 10.1 In my view, the application raises no issues different from those raised by the application for restaurant use on lower floors, and refusal could not be justified in the light of the previous Inspector's decision.

## 11.0 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. No bar or cafe shall be operated on the sixth floor.

Reason: Bar or cafe use would raise different issues in terms of neighbour amenity impact and movements to and from the site, which would require examination through a planning application. (Cambridge Local Plan policies 3/4, 4/11, 4/13, 8/2 and 8/9)

3. Except with the prior written agreement of the local planning authority in writing 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 residential amenity of neighbours. (Cambridge Local Plan 2006 policies 3/4 and 4/13)

4. Before the development/use hereby permitted is occupied, a scheme for the insulation of the plant in order to minimise the level of noise emanating from the 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 residential amenity of neighbours (Cambridge Local Plan 2006 policies 3/4 and 4/13)

5. Prior to the occupation/use of the development, details of equipment for the purpose of extraction and filtration of 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 residential amenity of neighbours.  
(Cambridge Local Plan 2006, policies 3/4 and 4/13)

6. No flues, extract grilles or external plant shall be added to the exterior of the sixth floor or the roof of the building unless full details of the appearance of those additions have first been submitted to, and approved in writing by, the local planning authority.

Reason: To ensure no adverse impact on the skyline, the setting of surrounding buildings, or the conservation area.  
(Cambridge Local Plan 2006 policies 3/4, 4/10 and 4/11)

**INFORMATIVE:** The applicant is advised that to satisfy the plant noise insulation condition, the rating level (in accordance with BS4142:2014) from all plant, equipment and vents etc (collectively) associated with this application should be less than or equal to the existing background level (L90) 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 correction in accordance with BS4142:2014. This is to prevent unreasonable noise disturbance to other premises. This requirement applies both during the day (0700 to 2300 hrs over any one hour period) and night time (2300 to 0700 hrs over any one 15 minute period).

It is recommended that the agent/applicant submits a noise prediction survey/report in accordance with the principles of BS4142: 2014 Methods for rating and assessing industrial and commercial sound or similar, concerning the effects on amenity rather than likelihood for complaints. Noise levels shall be predicted at the boundary having regard to neighbouring premises. It is important to note that a full BS4142:2014 assessment is not required, only certain aspects to be incorporated into a noise assessment as described within this informative. 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:** The applicant is advised that to satisfy the Odour/Fume Filtration/Extraction condition, details should be provided in accordance with Annex B and C of the, Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems, prepared by Netcen on behalf of Department for Environment, Food and Rural Affairs (DEFRA) dated January 2005 available at:

<http://webarchive.nationalarchives.gov.uk/20130123162956/http://www.defra.gov.uk/environment/quality/noise/research/kitchenexhaust/documents/kitchenreport.pdf>