

<b>Application Number</b>	15/1466/FUL	<b>Agenda Item</b>	
<b>Date Received</b>	31st July 2015	<b>Officer</b>	Lorraine Casey
<b>Target Date</b>	25th September 2015		
<b>Ward</b>	Petersfield		
<b>Site</b>	73-73A Tenison Road Cambridge Cambridgeshire CB1 2DG		
<b>Proposal</b>	Change of use of an existing building to either a B1 office use or, in the alternative continuation of D1 use.		
<b>Applicant</b>	Mr Rizvan Ali 15 Hardy Close Longstanton Cambridgeshire CB24 3GU United Kingdom		

SUMMARY	<p>The development accords with the Development Plan for the following reasons:</p> <ul style="list-style-type: none"><li>– The established use of the site is for D1 purposes. The continuation of a D1 use or B1 office use would comply with policy and bring forward an appropriate form of development in a highly sustainable location</li><li>– The proposal would not have a significant adverse impact on the amenities of adjacent residents</li><li>– The proposal would not have any highway safety implications</li></ul>
RECOMMENDATION	Approval

## 1.0 SITE DESCRIPTION/AREA CONTEXT

- 1.1 The site lies on the east side of Tenison Road and comprises 2 buildings, 73 Tenison Road, a two-storey former residential building towards the frontage of the site, and 73a, a two-storey

former coach house sited to the rear of 73. The site is bounded by the rear gardens of properties in St Barnabas Road to the east, by Quip Lighting and residential properties in Tenison Court to the north, and by a dwelling (No.75) to the south.

1.2 Both buildings on the site are currently vacant although, at the time the application was submitted, were used for D1 education purposes and occupied by the Cambridge Centre for Sixth Form Studies (CCSFS). Their lease expired on 31<sup>st</sup> August 2015, at which time the CCSFS vacated the building and re-located to alternative premises, 400 metres away on the corner of Tenison Road and Station Road.

1.3 The site lies within the Mill Road Conservation Area and within the Controlled Parking Zone.

## 2.0 THE PROPOSAL

2.1 The proposal seeks to change the use of the building to B1 offices or, in the alternative, to continue the use for D1 purposes.

2.2 The application is accompanied by the following supporting information:

1. Planning Statement
2. Supplemental Planning Statement

## 3.0 SITE HISTORY

Reference	Description	Outcome
C/97/0678	Change of use from house (C3) to teaching space and workshop (D1) with 3 car parking spaces and 6 cycle parking spaces - retrospective	Approved
C/02/0724	Erection of a single storey extension to two storey art department	Approved
C/03/0737		Approved

Single storey extension to two storey art department

## 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 Plan 2006	Local	3/1 3/4 3/7 3/11 4/11, 4/13 5/1 5/3 5/4 5/11 7/1 7/4 7/11 8/2 8/6 8/10

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

Central Government Guidance	<p>National Planning Policy Framework March 2012</p> <p>National Planning Policy Framework – Planning Practice Guidance March 2014</p> <p>Circular 11/95</p>
Supplementary Planning	Sustainable Design and Construction (May 2007)

Guidance	Cambridgeshire and Peterborough Waste Partnership (RECAP): Waste Management Design Guide Supplementary Planning Document (February 2012)
Material Considerations	<u>City Wide Guidance</u> Cycle Parking Guide for New Residential Developments (2010)

#### 5.4 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.

For the application considered in this report, there are no policies in the emerging Local Plan of relevance:

## 6.0 CONSULTATIONS

### Cambridgeshire County Council (Highways)

- 6.1 No significant adverse effect upon the public highway is anticipated to result from this proposal if it gains benefit of planning permission.

### Conservation

- 6.2 There are no material Conservation issues with this proposal.

## **Access Officer**

- 6.3 Advises that the building would need to meet Part M of the Building Regulations.
- 6.4 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 Councillor Sinnott has requested that the application be called in to Planning Committee so that any cited exceptions to Local Plan Policy 5/3 (Housing Lost to Other Uses) can be subject to scrutiny.
- 7.2 The owners/occupiers of the following addresses have made representations:
- ☐ 29 Tenison Road
  - ☐ 79 Tenison Road
  - ☐ 85 Tenison Road
  - ☐ 116 Tenison Road
  - ☐ 19 St Barnabas Road
  - ☐ 21 St Barnabas Road
  - ☐ 30 Lyndewode Road
- 7.3 The representations can be summarised as follows:

### Support

- ☐ No.79 supports the application to change the use to B1 office rather than continuation of D1 education or reversion back to residential use. Concurs with the applicant's comments that the buildings do not lend themselves to reversion back to residential use.

### Objections

- ☐ The proposal would be contrary to Policies 5/3 and 5/4. There is a shortage of residential accommodation in Cambridge, and there cannot be any justification for the loss of this housing.

- The application claims the lack of garden/amenity space renders the buildings unsuitable for residential use. There are a number of other properties in the area with less garden space. This includes No.67 Tenison Road which recently sold for more than £500,000.
- There is no information to suggest a residential use would be unsatisfactory.
- There was local opposition to the previous application, hence the requirement for the properties to be returned to residential use. This should be adhered to unless it can be proven there is nowhere else in the City for KISS to rent. There are currently two offices to rent within walking distance of the station that would appear to be of an appropriate size.
- There should be a similar condition to the previous planning permission, to require the use to revert to residential if KISS leave the premises.
- Retention of a D1 use, if used as a language school, would be contrary to Policy 7/11.
- Nos.19 and 21 St Barnabas Road are not opposed to the continuation of the D1 use or to the proposed B1 use but express concern about the hours of usage within a residential area and potential noise disturbance. There should be a continuation of the restricted hours imposed on planning permission C/97/0678. Suggested hours of 8.30/9am-6pm Monday-Friday.
- Whilst the company intended to occupy the building has green credentials, any company could occupy the premises and the same would not necessarily apply to them.
- Building works that have been undertaken include replacement windows and an alteration to the roofing materials which is not in keeping with the character of the area.

7.4 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. Highway safety
5. Car and cycle parking
6. Third party representations

### **Principle of Development**

#### *Loss of residential use*

8.2 At the time the application was submitted (in July 2015), the site was occupied by the Cambridge Centre for Sixth Form Studies, who had been present on site for approximately 18 years following the granting of planning permission in 1997.

8.3 Under application reference C/97/0678/FP, consent was granted for a change of use from house (C3) to teaching space and workshop (D1) with 3 car parking spaces and 6 cycle parking spaces. Condition 1 of this consent stated:

“When the premises shall cease to be occupied by Cambridge Centre for Sixth Form Studies the education use hereby permitted shall cease.

Reason: For the avoidance of doubt and because use of the building for any other purpose would require re-examination of its impact and because the Local Planning Authority wish to see the building revert to a residential use.”

8.4 An informative on the permission also stated:

“The planning permission hereby approved shall enure for the benefit of Cambridge Centre for Sixth Form Studies only, and when Cambridge Centre for Sixth Form Studies leave the premises the buildings will revert to use as a House and domestic outbuilding.”

- 8.5 CCSFS vacated the building at the end of August 2015 (and this was stated as the intention in the original accompanying documentation). The original Planning Statement submitted by the applicant's agent explained that, as a result of the conditions in the 1997 permission, the site would be required to revert back to residential use once vacated by CCSFS.
- 8.6 Officers advised at the time that the proposal would therefore conflict with Policies 5/3 and 5/4, which resist the change of use of residential accommodation to other uses unless, in part, it can be demonstrated the living accommodation provided would be unsatisfactory or the location of the property would not offer an acceptable level of residential amenity.
- 8.7 The applicant originally sought to address these policies by arguing that the buildings were unsuitable for residential use due to the lack of garden/amenity space and due to the impact such a use would have on the amenities of adjacent residents. Officers strongly disagreed with this assessment, and considered the site could revert back to use as a single dwelling, with domestic outbuilding, without harming the amenities of neighbours. Further information was requested to justify the proposal and to set out the needs of the local company intended to occupy the premises.
- 8.8 In response to the request for further information, the applicant's agent has argued that the condition of the 1997 planning permission is flawed and fails the necessary tests for conditions. It is argued that this condition fails to limit the use of the property to use as a dwelling house after CCSFS cease to occupy it, and that use as a dwelling would be a material change requiring planning permission. It is assumed the permission was seeking to achieve a temporary and personal consent (which the agent argues conflicts with current practice guidance), and the agent goes on to contend that the conditions would not be enforceable and that the building could lawfully be used for any use falling within Class D1. This would include the provision of medical or health services, creches and day nurseries, museums and art galleries, public halls and places of worship.
- 8.9 I have sought the advice of the Council's Legal Officers regarding this issue. They concur with the conclusions drawn by the applicant's agent, namely that, when CCSFS vacated the



site, the lawful use of the premises appears to have been for D1 rather than residential purposes. Whilst it is clear what the Council was seeking to achieve in imposing the condition, the wording of the condition does not achieve this in practice. The consent did not grant a temporary permission, limited to a particular period of time (in which case the use would have reverted to residential) nor did it grant a personal consent preventing use within Class D1, which would have resulted in a nil use when the occupiers vacated the premises. The condition required the educational use to cease. The lawful use once the site was vacated by CCSFS is therefore for D1 purposes, and the application should be considered on this basis and considered against Policy 5/11.

- 8.10 In view of the advice that has been given, it is evident that the existing permission is flawed, that the informative is unenforceable, that it would be difficult to enforce the condition, and that there is an established existing use of the premises for D1 purposes. As such, any argument that the lawful use is for housing (and hence that policies resisting the loss of housing apply) is simply incorrect and untenable.
- 8.11 Notwithstanding the above, it should be noted that Policy 5/3 is not consistent with the NPPF and is not proposed to be carried through within the emerging Local Plan, although it is acknowledged this can only be afforded limited weight given the status of the plan.
- 8.12 As noted above, the effect of a personal permission is that the site has a nil use once the relevant person has ceased to occupy it. It is worth noting that, if the previous planning permission had amounted to a personal permission preventing any use within Class D1 following CCSFS's departure from the site, so that the site was in a nil use, I consider that the development would have been acceptable in principle.

#### *Proposed uses*

- 8.13 The application proposes to use the building for either B1 office use or to continue the D1 use in the alternative.
- 8.14 The most likely use is for B1 office purposes, as the premises are intended to be occupied by KISS, a company that is currently located on the Science Park. Their existing premises

are too small and the company is keen to move to a more central location closer to its employees and other similar firms in the surrounding area, and also close to the station. The additional space would allow the company to grow and create extra jobs in a highly sustainable location. The company currently employ 20 people and wish to expand to up to 35 employees over a 5-10 year timescale.

- 8.15 The use of the premises for B1 offices would comply with Policy 7/1 of the Local Plan, which supports the principle of employment development on windfall sites.
- 8.16 If used for B1 purposes, this would mean the cessation of the D1 use. Policy 5/11 states that development leading to the loss of community facilities will only be permitted if it can be demonstrated:
- ☐ The facility can be replaced to at least its existing level and quantity within the new development; or
  - ☐ The facility is to be relocated to an appropriate premises or site of similar accessibility for its users; or
  - ☐ That there is no longer a need within the local community for the facility or that the need can be adequately met at an alternative facility of similar accessibility for its users.

The policy goes on to state that the redevelopment of school sites for other uses will be permitted only if it can be demonstrated that they are not required for the longer term for continued education use.

- 8.17 In this instance, the former educational facility has re-located to alternative premises nearby and I therefore consider the relevant criteria within this policy would be addressed if the premises were used for B1 purposes. A continuation of a D1 use would also be in accordance with this policy.

### **Context of site, design and external spaces**

- 8.18 The supporting statement explains that no external alterations are proposed to the building. On this basis, the proposed change of use would have no material impact on the character of the area, including the character and appearance of the Conservation Area.

- 8.19 A number of local residents have stated that external alterations have recently been carried out to the buildings. The applicant's agent has advised that, to the best of their knowledge, only internal alterations or like-for-like repairs have been undertaken. In the event that material alterations have been carried out, this would need to form part of a separate application and is not applicable to the consideration of the current application, which relates solely to the change of use of the building.
- 8.20 In my opinion, the proposal is compliant with Cambridge Local Plan (2006) policies 3/4, 3/7 and 4/11.

### **Residential Amenity**

#### Impact on amenity of neighbouring occupiers

- 8.21 The application form initially indicated that the use for B1 (office) or D1 (education) purposes would operate between the hours of 7.30am-7.30pm Monday-Friday and 9am-4pm on Saturdays.
- 8.22 A number of local residents expressed concern regarding the proposed operating hours and suggest these should be restricted to hours more appropriate within a residential area, namely 8.30/9am – 6pm.
- 8.23 The previously approved education use was subject to a condition limiting the hours to 9am-4pm Monday-Friday, with evening use permitted on one evening per week until 10pm, and allowing the building to be used at weekends but only during exam periods.
- 8.24 In response to the concerns that have been raised, the Supplementary Planning Statement states that the hours of use are likely to be Monday-Friday 8am-6.30pm with no weekend working. The report goes on to suggest that it would probably not be reasonable or necessary to impose such a limitation by way of planning condition having regard to the B1 definition. I concur that a B1 office use is unlikely to give rise to significant neighbour amenity issues, particularly in view of the low level of parking and associated vehicle manoeuvring encompassed within the proposal. However, given that the application also proposes a continuation of a D1 use in the alternative, and that such a use has the potential to give rise to a significantly

greater level of comings and goings than offices, my opinion is that imposing a restriction on operating hours would not be unreasonable. I have sought the views of the Environmental Health Officer on this point, and will update Members either in writing or verbally.

- 8.25 In my opinion, therefore, the proposal would not have an unacceptable impact upon the amenities of occupiers of surrounding residential properties.

### **Highway Safety**

- 8.26 Vehicular access would be via the existing access point onto Tenison Road. The Highways Authority has raised no specific objections in respect of the highway safety implications of the development.
- 8.27 The site is located 400m from Cambridge Railway Station and is within reasonable cycling and walking distance of the City Centre. It is in a sustainable location close to shops, services and facilities with excellent access to public transport.

### **Car and Cycle Parking**

- 8.28 The property has three off-street car parking spaces whilst cycle parking would be provided in accordance with the relevant standards. Due to the proximity to local amenities, and bus and cycle links, I consider the low level of parking to be acceptable in this location.
- 8.29 In my opinion the proposal is compliant with Cambridge Local Plan (2006) policies 8/6 and 8/10.

### **Third Party Representations**

- 8.30 The comments raised by local residents have been addressed within this report.

## **9.0 CONCLUSION**

- 9.1 In conclusion, I consider that the proposed development is acceptable and would comply with the provisions of the relevant development plan policies. As such, approval is recommended subject to conditions.

## **10.0 RECOMMENDATION**

Approval 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.