

## West Central Area Committee – 6<sup>th</sup> January 2011

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|---------------------------|---|--------------------|---------------|
| <b>Application Number</b> | 10/0938/FUL   | <b>Agenda Item</b> |               |
| <b>Date Received</b>      | 21st September 2010   | <b>Officer</b>     | Miss Amy Lack |
| <b>Target Date</b>        | 16th November 2010  |                    |               |
| <b>Ward</b>               | Castle  |                    |               |
| <b>Site</b>               | 25 Oxford Road Cambridge Cambridgeshire CB4 3PH                                 |                    |               |
| <b>Proposal</b>           | Retrospective change of use from office to sui generis therapy room and office. |                    |               |
| <b>Applicant</b>          | 25 Oxford Road Cambridge Cambridgeshire CB4 3PH                                 |                    |               |

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### 1.0 SITE DESCRIPTION/AREA CONTEXT

- 1.1 Oxford Road provides a link between Huntingdon Road to the southwest and Windsor Road to the northeast. The site is in a predominately residential street consisting of terraced housing dating from the late 19<sup>th</sup> and early 20<sup>th</sup> Centuries. The properties are set back from the pavement with a small garden to the front with many of the properties incorporating original features.
- 1.2 The application relates to 25 Oxford Road a two-storey end of terrace building on the northwest side of the road. Formally a laundry, in operation from the 1920s until about 1980s, it was granted consent for office use in 1989, this being its current lawful use. The building extends to the rear of the site and maintains a pedestrian access to the rear of the neighbouring gardens at number 27 and 29. Parking is available for two cars off street.
- 1.3 The site is not in or close to any Conservation area boundary or within a Controlled Parking Zone.

## 2.0 THE PROPOSAL

2.1 This application seeks permission for a change of use from Office (Use Class B1) to a health clinic (sui generis). The Therapy Room offers a range of complementary health therapies and training for therapists.

2.2 This use has unlawfully been in operation since July 2007 and as such retrospective permission is sought for the current use of the site.

2.3 The operating hours as approved for the Office/B1 use under planning reference C/90/0543/FUL are;

|                                  |            |
|----------------------------------|------------|
| Monday to Friday                 | 0800 -1930 |
| Saturdays                        | 0900 -1300 |
| Sundays and bank/public Holidays | Closed     |

2.4 The proposed sui generis use wishes to operate during the same hours.

2.5 The application is accompanied by the following supporting information:

1. Design and Access Statement

## 3.0 SITE HISTORY

| Reference   | Description  | Outcome |
|-------------|--|---------|
| C/88/0183   | Change of use of part of ground floor from storage to office use.                                    | A/C     |
| C/89/0425   | Use of building as part offices (178.6 sq m) and part residential, rear extension and refurbishment. | W/D     |
| C/89/1119   | Refurbishment of office building (class b1) including partial demolition and rebuilding works.       | A/C     |
| C/90/0543   | Removal of condition 4 of c/1119/89 limiting hours of occupation of office building.                 | A/C     |
| 06/1214/FUL | Conversion of offices to 3 dwellings and retention of 1 dwelling.                                    | REF     |

|             |  |                            |
|-------------|--|----------------------------|
| 08/1273/S73 | Variation of condition to amend opening hours from (8am to 7.30pm Monday to Friday and 9am to 1pm Saturday) to 9am to 9pm Monday to Friday and 9am to 5pm Saturday and Sunday. | W/D                        |
| 08/1586/FUL | Retrospective application for change of use of office to sui generis therapy room.   | W/D                        |
| 09/0585/FUL | Retrospective application for change of use of office to sui generis office and therapy room.  | REF<br>Appeal<br>Dismissed |

3.1 This proposal follows a number of applications. Planning reference 08/1273/S73 sought to vary condition 4 of planning application reference C/90/0543 which restricted the hours of use at the site. However, the current use as 'The Therapy Room' does not fall within the approved Office/B1 Use Class and therefore the applicant was advised to seek retrospective permission for change of use to a sui generis use.

3.2 Further to this advice planning reference 08/1586/FUL was submitted which sought retrospective change of use and extension to hours of trade comparable to those permitted under the approved office use and planning reference C/90/0543. However, the application was considered misleading in its request for open periods for 'Emergency' appointments. Not considered an enforceable operation and pending an officer's recommendation of refusal this application was subsequently withdrawn.

3.3 The application which most recently preceded this current application (planning reference 09/0585/FUL) sought to deal with the retrospective change of use and vary hours of operation as follows:

|                       |             |
|-----------------------|-------------|
| Monday to Friday      | 0900 - 2100 |
| Saturdays and Sundays | 1000 - 1700 |
| Bank/public Holidays  | Closed      |

3.4 This application was refused for one reason. The proposed change of use was considered unacceptable as a result of the proposed hours of trade which would be likely to generate an excessive level of noise and disturbance to the residents of adjacent properties at times when those residents could reasonably expect to enjoy peace and quiet both in relation to comings and goings to and from the premises. The applicant appealed against the Council's decision, the appeal was dismissed. The Inspector considered the operation of a clinic during the hours proposed would result in pollution in the form of noise and disturbance to the detriment of the living conditions of neighbouring residents in that respect contrary to policy 4/13 of the Cambridge Local Plan (2006).

#### **4.0 PUBLICITY**

|                        |     |
|------------------------|-----|
| 4.1 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)  
PPG24 Planning and Noise (1994)

##### **5.2 Development Plan Policy**

##### **5.3 East of England Plan 2008**

SS1 Achieving sustainable development  
T1 Regional transport strategy objectives and outcomes  
T9 Walking, cycling and other non-motorised transport  
T14 Parking  
ENV7 Quality in the built environment

## **5.4 Cambridge Local Plan 2006**

- 3/1 Sustainable development
- 3/4 Responding to context
- 4/13 Pollution and Amenity
- 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 to the proposal but observes that the level of activity associated with the proposed use is likely to generate additional car parking demand above that of the permitted office use. This additional demand would be imposed upon the existing on-street provision which already experiences considerable competition for available space.

### **Head of Environmental Services**

- 6.2 No objection subject to the hours proposed by the application being conditioned.
- 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:
- 19, Oxford Road. Cambridge CB4 3PH
  - 21, Oxford Road. Cambridge CB4 3PH
  - 29, Oxford Road. Cambridge CB4 3PH
  - 38, Oxford Road. Cambridge CB4 3PW

7.2 The representations can be summarised as follows:

- Running teaching courses alongside the treatment business is going to result in serious inconvenience to neighbouring residents which is not appropriate during the hours proposed;
- There is very limited parking space on site and the competition for car parking spaces on the street is beyond capacity, packed with commuter's cars which in turn denies vital access to some elderly residents along the road;
- Those coming to attend courses will come by car, worsening the car parking situation and during break times will have no where to go and end up loitering around outside given that there is no café or pub near to this site;
- No objection if the premises is to operate 0900hours to 1900hours but on weekdays only.
- Given the Inspector's views on noise and disturbance no training should be allowed to take place on Saturdays at all;
- Standing within the rear garden area of the site for breaks and to smoke will cause significant noise and disturbance, most markedly to immediately adjacent 21 Oxford Road.

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, representations received, my inspection of the site and the surroundings, and the recent decision at appeal, I consider that the main issues are:

1. Principle of development
2. Context of site, design and external spaces
3. Residential amenity
4. Car parking and Highway safety
5. Cycle parking
6. Third party representations

## **Principle of Development**

- 8.2 There are no policies in the Cambridge Local Plan (2006) that specifically relate to the running of small businesses in residential areas. As rehearsed above this application is retrospective and the current use on site as a health clinic has been in operation since July 2007. Prior to this the site was lawfully used as an office (Use Class B1), and prior to this a laundrette. As such, I believe the use of this site commercially has been established. Further to this no objections have been raised with regard to the principle of a change of use from B1 Offices to sui generis use as a health clinic by any of the third party representations received. The foremost objection is to the extension of the hours to which the business premises is open to trade, the proposal to run classes alongside the business which currently operates and the resultant impact that this combination will have upon neighbouring occupiers and their amenity. As such, I consider the principle of the change of use acceptable but the application must be considered on the specifics of the site and its material impact upon it and its surrounding context.

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

- 8.3 No internal or external changes are proposed as part of this application, accordingly, there would be no visual impact upon the appearance of the property itself or the wider street scene. As the premises would be unaltered visually, there will be no material impact upon the residential character of this property or upon its immediate setting. While I acknowledge that this is a business premises within a predominantly residential area I believe the main issue with regard to the impact of this change of use and the hours proposed is most pertinently considered under the heading *Residential Amenity* below. With regard to the physical form of the building and the impact this use has upon it I consider the proposal compliant with East of England Plan (2008) policy ENV7, and Cambridge Local Plan (2006) policy 3/4.

## **Residential Amenity**

- 8.4 From the consultation responses, representations received, my inspection of the site and also mindful of the recent comments received from the Inspector who considered and dismissed the recent appeal at this site, I consider the main consideration regarding the proposed use and hours that this use operates, is the impact upon the amenity of neighbouring residential occupiers given that the surrounding area is predominately residential.
- 8.5 This application is retrospective and as such the impact of both the use of the site as a health clinic and the hours of operation are already experienced by neighbouring residents. The representations received to the previously refused application generally conceded that whilst the use of the premises as a health clinic was acceptable the extended hours into the evening and at the weekends were not and this demonstrated that the premises, in a residential area, is not suitable if the clinic wished to expand. This was a point with which I was inclined to agree and was also considered valid by the Inspector. Accordingly, this current application has sought to address this concern by seeking the same hours of trade as imposed upon the consent for the lawfully permitted office use (planning reference C/90/0543).
- 8.6 Despite the reduction in the hours sought, third party representations in objection to the proposal still oppose the hours of operation. Particular mention is made to the site hosting training courses which will have greater potential to result in larger numbers of people coming and going from the site; parking in the street; and congregating outside in and around the site during break times.
- 8.7 In residential areas such as this it is standard practice to protect the noise environment in the evenings, Saturday afternoons, Sundays and Bank Holidays, when residents should generally expect to enjoy their homes and gardens without uncharacteristic noise, hence the hours which were approved for the extant Office use. By proposing that the clinic operates under the same hours of trade I consider activity, such as people and cars coming and going, late into the evening when the background noise of the day has decreased and will be more noticeable has been eliminated compared to that of the



two previous applications (planning references 08/1586/FUL and 09/0585/FUL).

- 8.8 Mindful of the concerns of neighbouring residents, the residential nature of the area, and the proximity of the commercial site to residential occupiers, I am content that if conditioned to only operate during the hours the application proposes the noise and disturbance as a result of the clinic's operations will be kept to a reasonable and acceptable level. Subject to such a condition I consider the proposal compliant with East of England Plan (2008) policy ENV7 and Cambridge Local Plan (2006) Policies 3/4 and 4/13 and to guidance provided by PPS1 - Delivering Sustainable Development.

### **Car parking and Highway safety**

- 8.9 Located outside of the Controlled Parking Zone (CPZ) there is currently un-restricted on street car parking along Oxford Road. Many of the nearby dwellings do not have off street car parking though the application site does benefit from parking spaces for two cars within its curtilage.
- 8.10 Third party comments mention the additional pressure upon car parking in the street as a result of the customers visiting 'The Therapy Room'. No objections have been raised by the Highway Authority with regard to the Highway Safety impact of this proposed use but comments do draw attention to the increased competition of on street car parking on the road and the surrounding streets which already experiences considerable demand for available space and the proposals likelihood of increasing this. Whilst I acknowledge the inconvenience that this can cause local residents I must be mindful to the City Council's car parking standards. These are maximum requirements with a view to discourage car use and encourage more sustainable modes of transport. Further to this the Highway Authority advise that this proposal is unlikely to compromise Highway safety. As such, I consider the proposed change of use compliant with East of England Plan (2008) policies T1 and T14 and Cambridge Local Plan (2006) policies 8/2 and 8/10.

## **Cycle Parking**

- 8.11 An area to the rear of the site is indicated on the submitted plans for the provision of on site cycle parking. This must be secure and covered making a minimum provision for 13 cycles in accordance with the City Council's Cycle parking standards as set out in Appendix D of the Cambridge Local Plan (2006). Despite the lack of full details as to how this provision is to be met on site I consider there enough external space on site to accommodate this provision and suggest a condition is imposed which requires full details of secure and covered cycle parking to ensure this is realised on site. Subject to such a condition, in my opinion, the proposal is compliant with East of England Plan (2008) policy T9 and Cambridge Local Plan (2006) policy 8/6.

## **Third Party Representations**

- 8.12 The concerns of local residents raised in the third party representations received have been addressed above under the sections 'Residential Amenity' and 'Car Parking and Highway Safety'.

## **9.0 CONCLUSION**

- 9.1 By proposing opening hours the same as that permitted under the existing lawful Office use I consider the application to have successfully overcome the previous reason for refusal under planning reference 09/0585/FUL and the concerns of the Inspector who considered the applicants appeal of this decision. Whilst mindful of the concerns of neighbouring residents, the residential nature of the area and the proximity of the commercial site to residential occupiers I am satisfied that if conditioned to only operate during the hours the application proposes the noise and disturbance as a result of the clinic's operations will be kept to a reasonable and acceptable level. Accordingly I recommend the application be approved.

## 10.0 RECOMMENDATION

Determined under delegated powers by:

Designation - Development Control Manager

Date:

(Include Below For Area Committees Only)

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.

1. The sui generis use hereby permitted shall only operate between the hours of: 0800hours and 1930hours Monday to Friday; 0900hours and 1300hours on a Saturday; and at no time on Sundays, Bank or Public Holidays. For the avoidance of doubt no staff, or members of the public shall be permitted to be present outside those hours.

Reason: To control its impact in terms of transport movements, noise and disturbance, and residential amenity. (Cambridge Local Plan 2006 policies 3/7, 4/13 and 8/2)

2. Within 2 months of the date of this decision details of facilities for the covered, secured parking of a minimum of thirteen bicycles for use in connection with the use hereby permitted shall be submitted to and approved by the local planning authority in writing. The approved facilities shall be provided in accordance with the approved details within 2 months of approval of the details and shall be retained thereafter.

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

3. **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:

East of England plan 2008: Policies SS1, T1, T9, T14 and ENV7

Cambridge Local Plan (2006): Policies 3/1, 3/4, 4/13, 8/2, 8/6 and 4/13

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](http://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**

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