

<b>Application Number</b>	10/1096/FUL	<b>Agenda Item</b>	
<b>Date Received</b>	19th November 2010	<b>Officer</b>	Mr James D'Arcy
<b>Target Date</b>	14th January 2011		
<b>Ward</b>	Market		
<b>Site</b>	60 King Street Cambridge Cambridgeshire CB1 1LN		
<b>Proposal</b>	Change of use from A1 (shop) to A3 (Restaurant Cafe)/A4 (Drinking Establishment).		
<b>Applicant</b>	Mr James Hoskins 20 Brookhampton Street Ickleton Cambridge CB10 1SP		

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

- 1.1 The site is situated on the south side of King Street, in the city centre. The building is two storeys in height, and is currently vacant although it appears to have been in commercial use at ground floor level, with a residential use above at first floor level, which is typical of many properties in King Street.
- 1.2 King Street has a wide range of uses, including a diverse and eclectic range of public houses, and a range of restaurant/café uses. At ground floor level the southern side of this part of the street is predominantly commercial. Immediately opposite the site however, on the north side of the road are residential properties that front directly onto the street, albeit that they are set up slightly from pavement level.
- 1.3 The site is within City of Cambridge Conservation Area N<sup>o</sup>.1 (Central).

## 2.0 THE PROPOSAL

- 2.1 The application seeks change of use from Class A1 (retail) to class A3/A4 (restaurant/drinking establishment).
- 2.2 The application is accompanied by the following supporting information:
1. Design Statement
  2. Proposed plans and indicative elevations

## 3.0 SITE HISTORY

Reference	Description	Outcome
C/84/0510	Change of use from offices to three bed-sitting rooms	Approved with conditions
10/1097/ADV	Signage	Approved with conditions

## 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)  
Planning Policy Statement 5: Planning for the Historic Environment (2010)  
Circular 11/95 – The Use of Conditions in Planning Permissions

### 5.2 East of England Plan 2008

SS1: Achieving Sustainable Development  
ENV6: The Historic Environment  
ENV7: Quality in the Built Environment

### **5.3 Cambridge Local Plan 2006**

3/1 Sustainable development  
3/4 Responding to context  
3/7 Creating successful places  
4/11 Conservation Areas  
4/13 Pollution and amenity  
6/6 Change of use in the City Centre  
6/10 Food and drink outlets.

### **5.4 Supplementary Planning Documents**

Cambridge City Council (May 2007) – Sustainable Design and Construction:

### **5.5 Material Considerations**

#### **City-wide guidance**

The Cambridge Shopfront Design Guide (1997)

#### **Area Guidelines**

Cambridge Historic Core Conservation Area Appraisal (2005)

## **6.0 CONSULTATIONS**

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

6.1 No objections, informative requested.

#### **Head of Environmental Services**

6.2 The Environmental Health Officer has commented at length about these premises, which have been vacant for a number of years. Although initially recommending refusal (on the basis that there was an inadequate provision of toilets, the amended comments are that no objection is raised, but several conditions and informatives are requested. The conditions relate specifically to hours of opening; precluding the taking of drink onto the public highway; limited use only of the rear courtyard; a limitation upon entertainment in the premises; and, waste and recycling provision.

The point is also made that the site is within the City Centre Cumulative Impact Zone. The location, immediately opposite flats and potential for noise complaint is also rehearsed.

### **Historic Environment Manager**

6.3 No objections, conditions requested.

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

22 Manor Place  
40 Manor Place  
58 Manor Place

7.2 The representations can be summarised as follows:

- increased noise from revellers;
- increase in alcohol related disorder;
- light pollution and associated impacts;
- increase in units of this nature within the street;
- increased problems with 'rough sleepers';
- cooking odours;
- disruption as a result of vehicular traffic.

7.3 One representation was in support of the application, citing the good relationship between landlords and local residents, and the benefits of the reinstatement of a public house in a street renowned for such establishments.

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. Third party representations

### **Principle of Development**

8.2 The application seeks change of use permission of a site within the City Centre, but which is not part of a primary shopping frontage. The most relevant policies to consider in this case is Cambridge Local Plan Policy 6/6 Change of Use in the City Centre, which states:

#### **6/6 Change of Use in the City Centre**

**Changes of use from A1 to A2, A3, A4, or A5 uses at ground floor level will only be permitted:**

- a – in primary shopping frontages where the proposal would not harm the contribution the frontage makes to the vitality and viability of the City Centre; and**
- b – in secondary shopping frontages where the percentage of A1 uses does not fall below 60% (measured by the number of units), except for Regent Street/St Andrew's Street (south of Downing Street ) where the percentage of A1 uses should not fall below 25% and Bridge Street (north of Round Church Street) where the percentage of A1 uses should not fall below 40%."**

**and**

#### **6/10 Food and Drink Outlets**

**Development for Use Classes A3, A4 and A5 (food and drink) will only be permitted:**

- a – where the proposal will not give rise to unacceptable environmental problems or nuisance and the individual and cumulative impact of the development is considered acceptable; and**
- b - it is in an existing centre or is part of a mixed use area in an urban extension or the Station Area.**

8.3 With regard to policy 6/6 the site is, as has been rehearsed previously, within a secondary shopping centre and not in one of the specified areas and there is therefore a requirement that a change of use does not result in less than 60% of units being in Class A1 shops use. That policy threshold has not yet been breached and as I do not consider that the change of use would harm the contribution the frontage makes to the vitality and viability of the City Centre, I do not consider that the proposal is in conflict with Local Plan policy 6/6.

Policy 6/10 sets different tests, but essentially tries to restrict such uses to the City Centre or local centres rather than residential areas and in simple terms as this is in the City Centre, that is achieved here. What is also an issue, however, is that there is also residential property in the immediate area, only a few metres across the street. That in turn brings into focus the question of whether the proposal will give rise to unacceptable environmental problems or nuisance and whether the individual and cumulative impact of the development is considered acceptable.

8.4 To address first the cumulative impact, I must commence by noting the comments of the Environmental Health Officer (EHO) about the premises being within the City Centre Cumulative Impact Zone, but I hold to the view that that of itself does not mean the proposal is unacceptable in planning terms and licensing would be for a separate body to consider. With regard to cumulative impact resulting from an additional Class A3/A4 use in the street, I am of the opinion that the character of the street, which has a history of a large number of drinking and eating establishments and a lot of movements during the evening hours, is such that the addition of this relatively small establishment would not materially adversely impact upon the area as a whole in a way that would justify refusal.

8.5 The second issue, the individual impact is to my mind more significant because of the residential premises immediately opposite. The establishing of a public house does have the potential to be a nuisance and would in my view need to be strictly controlled if it was not going to cause environmental problems for neighbours. The EHO has not raised objection, but only on the basis of conditions restricting hours of use, hours of use of the courtyard and control on entertainment in

the public house and precluding the taking of drinks out into the street. The last of these is particularly important because of the issue of patrons, especially those who wish to smoke, congregating outside and creating noise in the street. It is suggested by the EHO that the courtyard area to the rear should be encouraged as a place for smokers, rather than the street, but there is also a need to control hours of use there. In the event that permission is granted I think that that the limitations on the hours of use and entertainment should be supplemented by a condition preventing the street door from being held open after 8pm.

- 8.6 On balance, I am of the opinion that the introduction of a Class A3/A4 use here need not give rise to unacceptable environmental problems or nuisance, but conditions will need to be strictly enforced to ensure that it will not.
- 8.7 I consider that the principle of the development is acceptable and in accordance with policy 6/6 and 6/10 of the Cambridge Local Plan 2006, and policies SS1 and ENV7 of the East of England Plan 2008.

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

- 8.8 The only aspects of the application which have a visual impact in the conservation area, apart from the signage already approved under 10/1097/ADV (with an informative making it plain that that decision will not prejudice the outcome of this application) are the proposal to paint the rendered wall in a dark red colour, and the proposal to alter the fenestration at ground floor level. The Historic Environment Manager supports the dark red paint and I agree that this change would enhance the character of the conservation area, but in accordance with conservation advice, I recommend a condition to control the exact colour to be used.
- 8.9 The changes proposed to fenestration are unclear. As the Historic Environment Manager points out, the applicant's supplementary notes indicate that the existing window pattern (similar to the historic arrangement) is to be retained and enhanced by the removal of painted panels. However, this is contradicted by the photomontage of the proposed elevation attached to the application. I am in agreement with the Historic Environment Manager that the proposal to retain the present

glazing bars, and eliminate paint from the upper panels would enhance the character of the conservation area, but I consider the arrangement shown in the photomontage, in which the majority of the present glazing bars are removed, would be detrimental to that character. In my view, this confusion can be addressed by a condition on window details, which I recommend. I acknowledge that planning control would not prevent the applicant retaining the present arrangement of windows.

- 8.10 In my opinion, subject to conditions, the proposal is compliant with East of England Plan 2008 policies ENV6 and ENV7, Cambridge Local Plan (2006) policies 3/4 and 4/11, and government advice in PPS1 and PPS5.

### **Residential Amenity**

- 8.11 Representations raise concerns that the proposed use would have a harmful impact on the amenity of neighbours, particularly those opposite the site in Manor Place, because of increased noise. There are already a considerable number of Class A4 uses in the street, and I do not consider that the impact of a single, modestly-sized additional premises need be very great. However, as has been addressed in 8.5 above there are issues because of the proximity to residential units and the tendency of establishments such as this (particularly when in A4 usage), to spill out into the street. Despite the concerns that have been expressed about the increased noise from revellers, increased alcohol related disorder; and the intensity of such usage in the street, I consider that with control of usage through conditions, the impact upon the neighbours across the street can be limited to a degree which means that there is not sufficient justification to refuse permission.
- 8.12 I do not consider that light pollution from the public house would cause harm to any material degree, particularly when there is a lamp standard immediately opposite the building on the Manor Place (north) side of the road. Similarly I do not consider the establishing of the A3/A4 use here would have a material bearing on rough sleepers. Cooking is not proposed through the application directly, but would clearly be relevant for a Class A3 use if there was to be a restaurant as opposed to a café; the odours would have to be managed through the environmental health legislation.

8.13 In my opinion, subject to the conditions recommended, the proposal adequately respects the residential amenity of its neighbours and I consider that, in this respect, it is compliant with Cambridge Local Plan (2006) policy 3/4.

### **Third Party Representations**

8.14 I consider that all the issues raised through the representations have been addressed above.

## **9.0 CONCLUSION**

9.1 This is a difficult case where there is a potential reverse of what has been a trend in recent years to see the closure of public houses. but for the residential uses in the immediate area I think that in planning terms the use is good and reverts to what is understood to have been on the site in the past. Despite the concerns of local residents about the proximity of the use to their residential property, I am nevertheless of the opinion that the proposed use is an appropriate one, that can be controlled in a way which makes it acceptable in this location.

## **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. Full details of the colours to be used are to be submitted to and approved in writing by the LPA. Colours should be specified by means of the RAL or British Standard (BS 4800: 1989) systems and not by means of manufacturer's trade names.

Reason: To preserve the character of the Conservation Area (Cambridge Local Plan 2006 policy 4/11)

3. No boiler flues, soil pipes, waste pipes or air extract trunking, etc. shall be installed until the means of providing egress for all such items from the new or altered bathrooms, kitchens and plant rooms has been submitted to and approved in writing by the local planning authority. Flues, pipes and trunking, etc. shall be installed thereafter only in accordance with the approved details.

Reason: To preserve the character of the Conservation Area (Cambridge Local Plan 2006 policy 4/11)

4. The use hereby permitted shall not commence until details (in the form of an elevational drawing at 1:50 or larger scale) of any proposed changes to the arrangement of ground-floor front elevation windows have been submitted to and approved in writing by the local planning authority. Changes to these windows shall be made thereafter only in accordance with the approved details, and any windows altered in accordance with the approved details shall be retained thereafter.

Reason: To preserve the character and appearance of the conservation area. (Cambridge Local Plan 2006 policy 4/11)

5. 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 amenity of the adjoining properties. (Cambridge Local Plan 2006 policy 4/13)

6. The premises opening hours shall be limited to the hours of

Sunday to Thursday 10am until 11pm  
Friday and Saturday 10am until midnight.

The opening hours above shall be extended until midnight on Bank Holidays and the day preceding a Bank Holiday and St Patrick's, St David's, St Andrew's and St George's Days.

From 10pm New Years Eve until 02:00 New Years day and then the normal opening hours.

The street door to the premises may not be held fixed open after 8pm on any day

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

7. Open drinks shall not be taken off the premises and shall not be consumed outside the premises on the public highway. Signs shall be prominently displayed at the exit of the premise informing patrons of this requirement.

Reason: To protect the amenity of neighbouring residential properties in accordance with Cambridge Local Plan 2006 policy 4/13

8. Drinks shall not be consumed in the rear Courtyard after:

10pm on Sunday to Thursday evenings  
11pm on Friday and Saturday evenings or on any other night when the premise is open until midnight.

Signs shall be prominently displayed at the exit to the Court Yard informing patrons of this requirement.

Reason: To protect the amenity of neighbouring residential properties in accordance with Cambridge Local Plan 2006 policy 4/13.

9. Regulated entertainment shall be limited to 2 unamplified performers on no more than 2 occasions within a calendar month and shall finish by 11pm.

During Regulated entertainment the windows and doors shall be kept closed except for access and ingress.

Reason: To protect the amenity of neighbouring residential properties in accordance with Cambridge Local Plan 2006 policy 4/13

10. Prior to the commencement of development, full details of the on-site storage facilities for trade waste, including waste for recycling shall be submitted to and approved in writing by the local planning authority. Such details shall identify the specific positions of where wheelie bins, paladins or any other means of storage will be stationed and the arrangements for the disposal of waste. The approved facilities shall be provided prior to the commencement of the use hereby permitted and shall be retained thereafter unless alternative arrangements are agreed in writing by the local planning authority.

Reason: In the interests of amenity (Cambridge Local Plan 2006 policy 4/13)

**INFORMATIVE:** Health and Safety

As the premises is intended to be run as a business The applicant is reminded of their duty under the Construction (Design and Management) Regulations 2007 to ensure that the that all significant risks related to the design and operation of the premises are minimised.

**INFORMATIVE:** Food Safety

As the premises is intended to be run as a food business the applicant is reminded that under the Food Safety Act 1990 (as amended) the premises will need to registered with Cambridge City Council. In order to avoid additional costs it is recommended that the applicant ensure that the kitchen, food preparation and foods storage areas comply with food hygiene legislation, before construction starts. Contact the Food and Occupational Safety (FOS) Team of the Refuse and Environmental Service at Cambridge City Council on telephone number (01223) 457890 for further information.

**INFORMATIVE:** Licensing

If the premises is intended to provide alcohol, regulated entertainment or food after 11pm or before 5am it may require a Premise Licence under the Licensing Act 2003. The applicant is advised to contact The Licensing Team of the Refuse and Environmental Service at Cambridge City Council on telephone number (01223) 457899 for further information.

**INFORMATIVE:** The applicant is advise that following implementation of any Permission issued by the Planning Authority in regard to this proposal the occupiers of the site will not qualify for Permits within the existing Residents' Parking Schemes operating on surrounding streets.

**INFORMATIVE:** The applicant is advised that the need for any external plant and or equipment associated with any cooking operation is likely to require planning permission and no assumption should be made that any equipment can be installed with the prior grant of planning permission.

**INFORMATIVE:** New development can sometimes cause inconvenience, disturbance and disruption to local residents, businesses and passers by. As a result the City Council runs a Considerate Contractor Scheme aimed at promoting high standards of care during construction. The City Council encourages the developer of the site, through its building contractor, to join the scheme and agree to comply with the model Code of Good Practice, in the interests of good neighbourliness. Information about the scheme can be obtained from The Considerate Contractor project Officer in the Planning Department (Tel: 01223 457121).

### **Reasons for Approval**

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

East of England plan 2008: SS1, ENV6, ENV7

Cambridge Local Plan (2006): 3/1, 3/4, 3/7, 4/11, 4/13, 6/6

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**

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 on the City Council website at: [www.cambridge.gov.uk/planningpublicaccess](http://www.cambridge.gov.uk/planningpublicaccess) or by visiting the Customer Service Centre at Mandela House.