

Application Number	11/0096/S73	Agenda Item	
Date Received	2nd February 2011	Officer	Mr Amit Patel
Target Date	30th March 2011		
Ward	Petersfield		
Site	41 Mill Road Cambridge Cambridgeshire CB1 2AW		
Proposal	S73 application to vary condition 2 of planning permission reference 10/0559/FUL to allow the coffee shop at 41 Mill Road to open to customers between 07:00 - 19:00 Monday to Friday, 08:00 - 19:00 on Saturdays and 08:00 - 18:00 on Sundays.		
Applicant	C/o Mrs Natalie Jarman Walsingham Planning Bourne House Cores End Road Bourne End Bucks SL8 5AR		

1.0 SITE DESCRIPTION/AREA CONTEXT

- 1.1 41 Mill Road stands on the north side of the street on the north-east corner of the junction of Mill Road and Mackenzie Road; it occupies the whole of the Mill Road frontage between that corner (west) and the entrance to Mill Road Cemetery (east). The ground floor, which is the subject of this application, was in commercial use as drop-in legal centre, but has been in use as a café for about 9 months. The Mill Road frontage of the building, which is where the access is located, is dominated by 6 tall openings, one a door. The property is constructed in brick with a slate roof, but it has been rendered cream at ground floor around the commercial use.
- 1.2 The surrounding area is a mixture of residential and commercial properties that tend to fall with classes A1, A2, A3 or A5. The general pattern along this part of Mill Road is of residential development on the north side of the street and commercial use at the ground floor with residential flats or storage at first floor level on the south side of the street.

1.3 The building is situated within the Mill Road and St Matthews area of the City of Cambridge Conservation Area 1 (Central) and is within the Mill Road District Centre (20) as defined in the Cambridge Proposals Map.

2.0 THE PROPOSAL

2.1 The proposal seeks approval to vary condition 2 of the approved planning permission 10/0559/FUL so that the premises can open between 07:00 - 19:00 Monday to Friday, 08:00 - 19:00 on Saturdays and 08:00 - 18:00 on Sundays; the permission sought is for a temporary period of 18 months only.

2.2 The original condition stated that the premises could be open between 08:00 hours to 18:00 hours only on any given day.

2.3 The application has been submitted in light of a breach of condition to the current planning approval (10/0559/FUL).

2.4 The application is accompanied by the following supporting information:

1. Design Statement
2. Location Plan

3.0 SITE HISTORY

Reference	Description	Outcome
10/0559/FUL	Change of use to a coffee shop (A3 use).	A/C
10/0639/FUL	Installation of 3 fascia signs and 1 hanging sign (external illuminated).	A/C
10/0638/FUL	Alterations to existing shopfront.	A/C
11/0193/FUL	Installation of grill for a/c on side elevation (retrospective)	Pending

4.0 PUBLICITY

4.1 Advertisement:	Yes
Adjoining Owners:	Yes
Site Notice Displayed:	Yes

5.0 POLICY

5.1 Central Government Advice

5.2 **Planning Policy Statement 1: Delivering Sustainable Development (2005):**

Paragraphs 7 and 8 state that national policies and regional and local development plans (regional spatial strategies and local development frameworks) provide the framework for planning for sustainable development and for development to be managed effectively. This plan-led system, and the certainty and predictability it aims to provide, is central to planning and plays the key role in integrating sustainable development objectives. Where the development plan contains relevant policies, applications for planning permission should be determined in line with the plan, unless material considerations indicate otherwise.

5.3 **Planning Policy Statement 4: Planning for Sustainable Economic Growth (2009):**

sets out the government's planning policies for economic development, which includes development in the B Use Classes (offices, industry and storage), public and community uses and main town centre uses. The policy guidance sets out plan-making policies and development management policies. The plan-making policies relate to using evidence to plan positively, planning for sustainable economic growth, planning for centres, planning for consumer choice and promoting competitive town centres, site selection and land assembly and car parking. The development management policies address the determination of planning applications, supporting evidence for planning applications, a sequential test and impact assessment for applications for town centre uses that are not in a centre and not in accordance with the Development Plan and their consideration, car parking and planning conditions.

5.4 **Planning Policy Statement 5: Planning for the Historic Environment (2010):**

sets out the government's planning policies on the conservation of the historic environment. Those parts of the historic environment that have significance because of their historic, archaeological, architectural or artistic interest are called heritage assets. The statement covers heritage assets that are designated including Site, Scheduled Monuments, Listed Buildings, Registered Parks and Gardens and Conservation Areas and those that are not designated but

which are of heritage interest and are thus a material planning consideration. The policy guidance includes an overarching policy relating to heritage assets and climate change and also sets out plan-making policies and development management policies. The plan-making policies relate to maintaining an evidence base for plan making, setting out a positive, proactive strategy for the conservation and enjoyment of the historic environment, Article 4 directions to restrict permitted development and monitoring. The development management policies address information requirements for applications for consent affecting heritage assets, policy principles guiding determination of applications, including that previously unidentified heritage assets should be identified at the pre-application stage, the presumption in favour of the conservation of designated heritage assets, affect on the setting of a heritage asset, enabling development and recording of information.

- 5.5 Planning Policy Guidance 24 - Planning and Noise (1994):** States at paragraph 12, that planning authorities should consider carefully whether new noise-sensitive development would be incompatible with existing activities. At paragraph 13, a number of mitigation measures are suggested which could be introduced to control the source of, or limit exposure to, noise.
- 5.6 Circular 11/95 – The Use of Conditions in Planning Permissions:** Advises that conditions should be necessary, relevant to planning, relevant to the development permitted, enforceable, precise and reasonable in all other respects.
- 5.7 East of England Plan 2008**
SS1: Achieving Sustainable Development
ENV6: The Historic Environment
ENV7: Quality in the Built Environment
- 5.8 Cambridge Local Plan 2006**
3/1 Sustainable development
3/4 Responding to context
3/7 Creating successful places
4/2 Protection of open space
4/6 Protection of sites of local nature conservation importance
4/11 Conservation Areas
4/13 Pollution and amenity

6/10 Food and drink outlets.

5.9 **Supplementary Planning Documents**

Cambridge City Council (May 2007) – Sustainable Design and Construction: Sets out essential and recommended design considerations of relevance to sustainable design and construction. Applicants for major developments are required to submit a sustainability checklist along with a corresponding sustainability statement that should set out information indicated in the checklist. Essential design considerations relate directly to specific policies in the Cambridge Local Plan 2006. Recommended considerations are ones that the council would like to see in major developments. Essential design considerations are urban design, transport, movement and accessibility, sustainable drainage (urban extensions), energy, recycling and waste facilities, biodiversity and pollution. Recommended design considerations are climate change adaptation, water, materials and construction waste and historic environment.

5.10 **Material Considerations**

City Wide Guidance

Cambridge Historic Core – Conservation Area Appraisal (2005): Guidance on the relationship between the Historic Core and new development.

Mill Road and St Matthews Conservation Area Appraisal (1999)

6.0 **CONSULTATIONS**

Cambridgeshire County Council (Engineering)

6.1 No adverse impact on the public highway.

Head of Environmental Services

6.2 No objection subject to a noise management scheme.

Historic Environment Manager

6.3 No objection, subject to conditions 3, 4 and 5 are still applicable from planning approval 10/0559/FUL.

Open Spaces

6.4 Comments relate to an opening in the wall, which is not relevant to this application, but state that the opening hours do not give rise to any problems.

6.5 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 Brown has commented on this application. The representation is attached to this report.

7.2 The Mill Road Society have objected to the planning application on the grounds that the applications for the opening hours and the creating of a hole in the wall should be heard together; there is no need to have extended opening hours before the opening in the wall is dealt with; when the opening in the wall application is submitted, the previous mishandling of the applications needs to be addressed. There needs to be a transparent system to handle the two retrospective applications together.

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

- 18 Romsey Road
- 27 Mill Road
- 14 Cockburn Street

7.4 The representations can be summarised as follows:

- Breach of condition;
- Alterations to a wall;
- Impact of this on the adjoining site of historical and architectural interest;
- Noise from the air condition plant;
- Litter from the shop;
- Noise from customers entering and exiting the shop;
- Obstruction to the pedestrian crossing;

- Already operating these hours;
- No point in setting hours if Council do not enforce.

7.5 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.

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. Context of site, design and external spaces
2. Residential amenity

Context of site, design and external spaces

8.2 This application is to vary the condition for opening hours and there no external alterations proposed as part of this application. The application for the grill in the flank wall has now been received, but too late for the application to be heard at this meeting. The Historic Environment Manager has commented that the proposal will not have a detrimental impact on the Conservation Area.

8.3 In my opinion the proposal is compliant with Cambridge Local Plan (2006) policies 3/4 and 3/7.

Residential Amenity

Impact on amenity of neighbouring occupiers

8.4 Setting aside the application for the grill in the flank wall, the main concern is the extending of the opening hours of the business. The proposal seeks approval for opening from 7am to 7pm Monday to Friday, 8am to 7pm on Saturdays and 8am to 6pm on Sundays.

8.5 The previously approved application allowed the unit to open 8am to 6pm only, Monday to Sunday. The proposal seeks to open an hour earlier and close an hour later Monday to Friday and open an hour later on Saturday.

- 8.6 There have been objections in relation to the potential noise and litter that the extended opening hours will have. The main issue, in my opinion, is the early hour opening time. This side of Mill Road is more residential and the particular issue is that the premises has residential accommodation above ground floor level. Environmental Health has raised no objection to the opening hours, but because of concerns about whether there may be implications for residents above and nearby has asked the applicants if they would accept a temporary permission to allow a proper assessment of the impact. The applicant has agreed to such a constraint and to the imposition of a condition to allow these operating hours for a period of 18 months only to fully assess the impact. Clearly the general character of Mill Road does mean that there is movement and activity at this time and I do not consider that a trial period to assess the specific impact is unreasonable.
- 8.7 The application site is subject to a condition in relation to waste, which will be applicable to this. There are other units along Mill Road that potentially generate more litter than this site but it is unreasonable to refuse the application on these grounds as the control over peoples behavior once they have left the premises is difficult. There are bins provided along Mill Road which can be used but planning does not have control over making people use them, though there are other mechanisms in place if people are caught dropping litter; it would be unreasonable to refuse this application on grounds of potential for littering.
- 8.8 In my opinion the proposal adequately respects the residential amenity of its neighbours and the constraints of the site and I consider that it is compliant with Cambridge Local Plan (2006) policies 3/4 and 3/7.

Highway Safety

- 8.9 Objections have been raised in relation to the obstruction of the pedestrian crossing, however the local highway authority have commented that the proposed opening hours will not have an adverse impact on highway safety.
- 8.10 The coffee shop has no seating available outside and people gathering in front of the shop, on a public highway is outside the control of planning. There are other crossing points that have narrower pavements with shop doors opening close to the crossing and, in my opinion causes a greater obstruction when

people gather there. The footpath is wider and therefore safer than many other places along Mill Road and feel that the proposal will not have a detrimental impact on highway safety.

- 8.11 In my opinion the proposal is compliant with Cambridge Local Plan (2006) policy 8/2.

Third Party Representations

- 8.12 Objections have been raised to a breach of condition, operating these hours and complaining that the Council has not enforced. This application is submitted on the back of an investigation by the Enforcement section due to the breach of condition. I have also received comments relating to noise from plant which does not form part of this application and will be assessed once it is validated.

9.0 CONCLUSION

It is my opinion that the impact of the extending of the opening hours is minimal. There are many other units that operate longer hours than this in Mill Road and due to the character and nature of Mill Road the additional impact is likely to be small. However, in order that the matter is properly assessed over a reasonable period of time, I consider the proposal to grant temporary permission for 18 months will allow a fuller assessment as to the impact the proposal will have and therefore recommend approval.

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 extended opening hours hereby approved shall be operated for 18 months from the date of the decision notice and shall cease to operate these hours and return to original hours as approved in planning reference 10/0559/FUL.

Reason: To test the impact of the extended hours on the residential amenity of neighbouring occupiers. (East of England Plan (2008) policies ENV6 and ENV7 and Cambridge Local Plan (2006) policies 3/4, 3/7, 4/13 and 6/10.

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 and ENV7

Cambridge Local Plan (2006): 3/1, 3/4, 3/7, 4/2, 4/6, 4/11, 4/13 and 6/10

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.

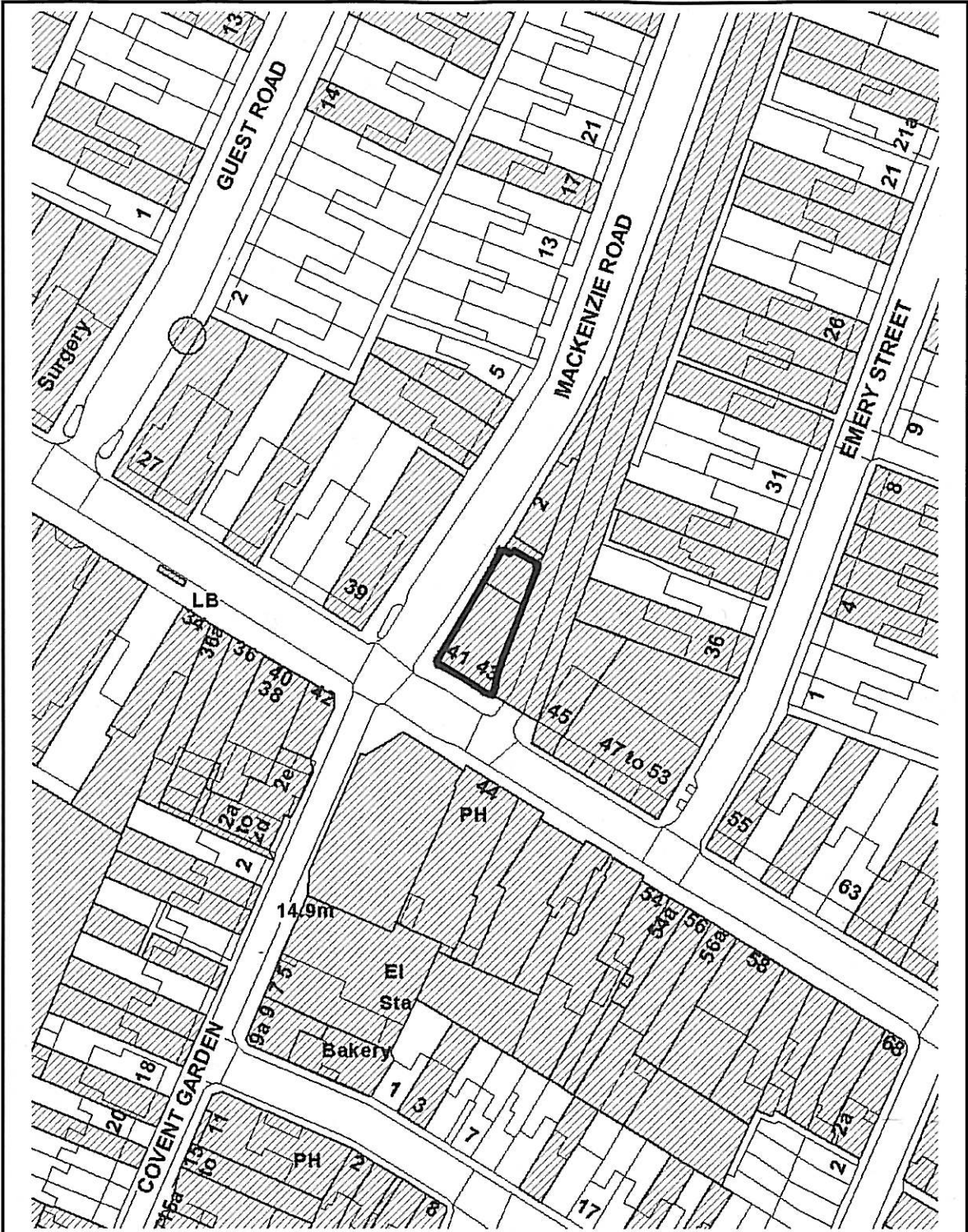
LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

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.



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