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Planning

Plan/1

Wednesday, 1 November 2023

PLANNING

1 November 2023

10.05 am - 3.45 pm

Present:

Planning Committee Members: Councillors Smart (Chair), Baigent (Vice-Chair), Bennett, Carling, Dryden, Levien, Porrer and Thornburrow

Also present Councillors: Davey, Glasberg, Robertson and Smith.

Officers:

Delivery Manager: Toby Williams

Principal Planner: Cuma Ahmet

Principal Sustainability Officer: Emma Davies

Senior Arboricultural Officer: Matthew Magrath

Planning Officer: Adam Dzimidowicz

Arboricultural Officer: Joanna Davies

Legal Adviser: Keith Barber

Committee Manager: James Goddard

Meeting Producer: Chris Connor

Other Officers Present:

Principal Engineer Major Developments: Tam Parry (Cambridgeshire County Council)

Local Highways Engineer: Jon Finney (Cambridgeshire County Council)

FOR THE INFORMATION OF THE COUNCIL

23/103/PlanApologies

No apologies were received.

23/104/PlanDeclarations of Interest

Name	Item	Interest
Councillor Baigent	All	Personal: Member of Cambridge Cycling Campaign.
Councillor Baigent	23/106/Plan	Personal: Had general discussion in person and by email about application. Discretion unfettered.

Councillor Bennett	23/106/Plan	<p>Personal and Prejudicial: Referenced legal advice on speaking. Green Party's letter (to the consultation process of the application) might be seen as indicative of the perception she was predetermined. Would speak as Ward Councillor.</p> <p>Withdrew from discussion and did not vote.</p>
Councillor Carling	23/106/Plan	<p>Personal: Was Executive Councillor for Open Spaces and City Services. Discretion unfettered.</p>
Councillor Thornburrow	23/106/Plan	<p>Personal and Prejudicial: Lives next to St Matthews Piece. Spoke on behalf of residents on the previous tree application. Predetermined in view when coming to committee so would speak as Ward Councillor.</p> <p>Withdrew from discussion and did not vote.</p>
Councillor Baigent	23/108/Plan	<p>Personal: Had general discussion in person and by email about application. Discretion unfettered.</p>
Councillor Bennett	23/108/Plan	<p>Personal: CAMRA member and had contact with the campaign to retain the Flying Pig. Also meet Rail Pen regularly in connection with the Beehive project in her ward. Discretion unfettered.</p>
Councillor Levien	23/108/Plan	<p>Personal: Made general enquiry about this application many years</p>

		ago. Discretion unfettered.
Councillor Thornburrow	23/108/Plan	Personal: Application in her Ward. Discretion unfettered.

23/105/PlanMinutes

No minutes were submitted for approval.

23/106/Plan23/0119/TTPO St Matthews Centre

Councillors Bennett and Thornburrow withdrew from the meeting for this item and did not participate in the discussion or decision making yet spoke as Ward Councillors.

In 2022 a tree work application was received to reduce the height by 5m and spread by 4m of three London Plane trees located within the grounds of St Matthews Centre opposite 193 Sturton Street. This application was refused at committee because of incomplete data supporting the application, the lack of a heave assessment and the lack of information regarding the installation of a root barrier.

The current application concerned the same three trees. The Committee received an application to remove (fell) to ground level and to treat stumps preventing regrowth.

The Tree Officer updated her report by referring to the amendment sheet:

- i. An additional representation received from Richard Buxton Solicitors dated 30/10/2023.
- ii. Pre-Committee amendments to the options provided to Members in the Officer report viz (i) grant consent; or (ii) grant consent subject to conditions; or (iii) refuse consent.

The Committee received a representation in objection to the application from the Friends of St Matthew's Piece:

- i. These 125-year old trees were integral to the unbroken treeline over the only park in the most densely housed ward in Cambridge.
- ii. They were planted 100 years before 193 Sturton Street was designed, built, bought, rented or insured.
- iii. The Council formally valued these trees at £200,000. Repair costs were quoted at less than one-tenth of this.

- iv. It was asserted that there was “tree-related clay-soil shrinkage subsidence”.
- v. Evaluate the evidence:
 - a. The applicant’s data on foundation movement shows the opposite of what should occur if that was taking place.
 - b. The applicant claimed the foundations moved most when the trees extracted maximum water.
 - c. Instead their data showed a doubling of movement in late December 2022 – an unusually cold month, with weeks of snow. The trees had no leaves, were dormant, so were taking up minimal water (if any).
 - d. Whatever caused that movement, it cannot have been the trees.
- vi. Furthermore:
 - a. The application had no information on whether or how the house was built to required standards.
 - b. It asserts but provides no evidence of current or ongoing damage.
- vii. The Case Officer cautions on 'Protected Trees', in her own website: "The onus is on the applicant to demonstrate that tree work is justified and the LPA is not obliged to approve unjustified works".
- viii. Legal input from Richard Buxton Solicitors of Cambridge sent to Members 30 October 2023 clarified there was no need to be bumped into an awful decision. It raised substantive questions and outlined matters that moderate any risk to the Council from continuing to protect these trees.
- ix. Refusal, followed by serious review and negotiation, minimised Council risks.
- x. By contrast, any vote to fell these protected, trees would be an irrevocable step that solidified severe risks:
 - a. No tree in Cambridge could be safe.
 - b. Cambridge would join Sheffield, Plymouth and Wellingborough Councils in negative publicity.

Councillor Davey (Petersfield Ward Councillor) addressed the Committee about the application:

- i. Had used St Matthew’s Piece for 15 years.
- ii. Was alarmed to see the tree felling proposal due to their amenity value.
- iii. Could not see many benefits in felling. This would lead to a loss of canopy cover.

- iv. Expressed concern:
 - a. The trees provided significant amenity value. Their loss would cause significant harm to the appearance, biodiversity, ecology, history and character of the area.
 - b. Could not see the logic for felling the trees. They were in place before the development, so home-owners should have been aware of the risks before purchasing 193 Sturton Street.
- v. The application could set a dangerous precedent for felling trees protected by Tree Protection Orders due to new housing developments. Petersfield in particular had few trees so they should be protected.

Councillor Robertson (Petersfield Ward Councillor) addressed the Committee about the application:

- i. Referred to 193 Sturton Street. When cracks appeared in the rear of the property but not the front, the acacia tree in the garden was suspected to be responsible, not the three London Plane trees located within the grounds of St Matthew's Centre opposite 193 Sturton Street.
- ii. The acacia was removed with permission in 2021. Ground heave was suspected as a result of its removal.
- iii. Problems caused by the removal of the acacia would be exacerbated by the removal of the three London Plane trees.
- iv. Took issue with the Arboricultural Consultant's comments as they did not seem to note the impact of removing the three London Plane trees.
- v. Suggested all risks belonged to the property owner.

Councillor Thornburrow (Petersfield Ward Councillor) addressed the Committee about the application:

- i. Concerns of Friends of St Matthew's Piece had not been addressed.
- ii. The three London Plane trees were part of a group located in a park in the city centre.
- iii. The trees had significant amenity value, currently and historically.
- iv. There were biodiversity benefits in having trees of various ages.
- v. The trees helped to mitigate the effects of climate change.
- vi. Removing the trees would affect biodiversity, air temperature and air flow in the park as a whole; plus residents' amenity space.
- vii. There was a lack of evidence to support the removal of the trees.

The Committee Manager read out the following points on behalf of Councillor Tong (Abbey Ward Councillor):

- i. Understood the legal context under which this case needed to be heard today, but the proposed harm to the trees was absolutely unjustifiable. Something he had spoken about several times over the previous seven months.
- ii. Prior to the last meeting, he was deluged by emails from residents expressing their anger over the proposal. Their 'will' needed to be recognised.

Councillor Glasberg (Green & Independent (Spokes) for Communities; Open Spaces and City Services; Climate Action and Environment) addressed the Committee about the application:

- i. The Council had policies to protect trees and the environment.
- ii. Members would have seen a letter from Richard Buxton Solicitors, who were involved in a lot of similar cases. It seems helpful at this stage to summarise his key points:
 - a. The Council did not have enough information confirming costings of repair works or preventative measures (like a root barrier or underpinning) to make any sort of sensible decision here.
 - b. There was no information about other possible causes of damage, such as normal seasonal clay shrinkage, to allow compensation liability to be apportioned.
 - c. No claim had in fact been made.
 - d. It made no sense to do anything until a claim was made against the landowner and the Council then knows its position (the landowner would have some financial responsibility).
 - e. The alleged damage to the property was slight.
 - f. It was arguable that there was no liability at all where the property was built after the trees had reached maturity – which was plainly the case here.
 - g. Overall, the Council should refuse consent now, wait to see if a claim was made, and then deal with it robustly.

Councillor Bennett (Abbey Ward Councillor) addressed the Committee about the application:

- i. Referred to points made by Richard Buxton, Solicitors of Cambridge.
- ii. If Planning Committee granted consent to fell the trees, the property owner (a Trust, separate to the Applicant) also needed to grant permission to remove the trees.
- iii. The Applicant could not proceed with tree felling without the tree owner's permission, so the City Council had no liability.

The Committee:

Resolved (6 votes to 0) to reject the application for tree felling and treatment of the stumps preventing regrowth at 193 Sturton Street.

The reason for refusal was **agreed by 6 votes to 0** with delegated authority to Officers in respect of minor modifications / grammatical errors etc.

Resolved (by 6 votes to 0) to refuse the application for the following reason:

The proposal requires the felling of three trees of outstanding and special value, both individually and as part of a group. These trees and the wider group of trees on St Matthew's Piece contribute significantly and positively to public amenity, the urban forest and to the character and appearance of the Mill Road Conservation Area, where special attention must be given to the desirability of preserving or enhancing its character and appearance. The damage associated with the retention of the trees is not considered to outweigh their amenity value (including but not limited to their visual, atmospheric, climate, biodiversity, historic and cultural benefits). A material loss of public amenity value including harm to the Conservation Area, the urban forest and to St Matthew's Piece - a highly valued protected open space in Petersfield ward which has very limited open space - would arise from their proposed removal. The proposal would therefore be contrary to Cambridge Local Plan policy 61, NPPF 2023 paras.131 and 174, NPPG guidance para. 090 Reference ID: 36-090-20140306 and para. 093 Reference ID: 36-093-20140306, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and other legislation, policies and guidance that seek safeguard the environment.

23/107/Plan23/0159/TTPO Howes Place

The Committee received an application to fell 5 lime stems from a group of pleached limes that contribute to the double avenue that borders Howes Place. The reason given as the need to fell them was clay shrinkage subsidence damage to 18 Howes Place.

The Committee received a representation in objection to the application from a resident of Howes Place (written statement read by Committee Manager):

- i. Suggested notable similarities between the Howes Place situation and the Sturton Street/St Matthews Piece, the Alexandra Gardens and the Beech tree on Hills Road situation.

- ii. Large areas of Cambridge were built on clay ground. In periods of hot weather, the clay would shrink, and in periods of wet weather, the clay would expand. Buildings constructed on the clay ground were likely to move and cracks appear.
- iii. As a result of climate change, more clay shrinkage and expansion - therefore more house cracking - was likely to occur. The very worst thing that we as a community could do was remove all our trees, as this would exacerbate climate change related problems.
- iv. Called on the local authority to act against the destruction of urban environments in Cambridge by tree removal due to the demands of insurance companies.
- v. Howes Place was recognised as a local heritage asset for the architectural interest of the buildings, the street scene value of the buildings set within formal landscaping and the importance of NIAB and Howes Place in the social and economic history of Cambridge.
- vi. In 2010 Officers of the local authority recognised Howes Place was an “area of special architectural and historic interest” and recommended designation as a Conservation Area to protect and enhance its special character.
- vii. The local authority was currently consulting on a draft Consultation Area Appraisal which encompasses the former NIAB HQ building and Howes Place. Within this appraisal it was recognized that “key groups of trees of importance include hedges and pleached lime trees which line Howes Place on the either side of the road and at the end of the road.”
- viii. The creator of NIAB and Howes Place, Sir Lawrence Weaver, collaborated closely with Gertrude Jekyll. Howes Place could be considered a historic and rare example of Arts and Crafts landscaping.
- ix. The four parallel rows of pleached lime trees in Howes Place were protected by a Tree Preservation Order because they provided an unusual and aesthetically pleasing avenue of trees which represented the most significant formal landscaping feature in Howes Place. Removing individual or small groups of trees would irrevocably destroy the overall coherence of the formal landscaping.
- x. The pleached lime trees in Howes Place were planted in the 1920s, 18 Howes Place was constructed in the 1940s, twenty years after the trees were planted. Both the trees and the house have co-existed for 80 years without issue.

- xi. The correlation between the cracks in 18 Howes Place and the presence of the pleached lime trees was unproven.
- xii. Other solutions, such as a root barrier system, should be installed before the felling of the mature pleached lime trees was considered. The Alexandra Gardens case proves this to be a viable solution.

Councillor Smith (Ward Councillor) addressed the Committee about the application:

- i. Referred to Planning Policy Guidance which should be considered when removing trees.
- ii. Tree Preservation Orders protected trees if their removal would do harm to the environment.
- iii. Howes Place trees had special amenity value as recognised in various strategies over the years.
- iv. The appraisal noted that although Howes Place was not a Conservation Area the trees were important to the character of the area. More Tree Preservation Orders were suggested for other Howes Place trees as they also had high amenity value.
- v. The 2018 Crawford Technical Report and 2022 Crawford Addendum Agricultural Report suggested poor foundations rather than the lime tree roots being the cause of damage to the property.
- vi. Referred to the consultant's report that recommended a second group of trees on the property be removed, this suggested all trees would be removed over time to mitigate (insurance) risk. The Applicant had not provided any evidence why the 5 lime trees or other ones should be removed. Reasonable steps such as a root barrier had not been implemented already.

The Committee:

Unanimously resolved to reject the application to fell 5 lime stems from a group of pleached limes which contribute to the double avenue that borders Howes Place.

The reason for refusal was **unanimously agreed as being:**

The application failed to justify with sufficient evidence that the removal of the trees is necessary and outweighs the contribution the trees make

to public amenity, which includes but is not limited to their visual, atmospheric, climate, biodiversity, historical and cultural benefits. The 5 trees are an important part of a pleached group with significant amenity, landscape and historic value, especially when considered as part of the wider groups of trees on Howes Place. The alleged damage associated with the retention of the trees is not considered to outweigh their public amenity value. A significant loss of public amenity to the Arts and Crafts character and appearance of Howes Place – which provides a cohesive and established landscaping design which centres around the positioning of the trees in combination with the historic design and layout of the properties - would arise from their proposed removal. The proposal would, therefore, be contrary to Cambridge Local Plan 2018 policies 61 and 62, NPPF 2023 paras.131 and 174, NPPG guidance para. 090 Reference ID: 36-090-20140306 and para. 093 Reference ID: 36-093-20140306 and other legislation, policies and guidance that seek to safeguard the environment.

Unanimously resolved:

- i. to refuse the application contrary to the Officer recommendation for the following reason:

The application failed to justify with sufficient evidence that the removal of the trees is necessary and outweighs the contribution the trees make to public amenity, which includes but is not limited to their visual, atmospheric, climate, biodiversity, historical and cultural benefits. The 5 trees are an important part of a pleached group with significant amenity, landscape and historic value, especially when considered as part of the wider groups of trees on Howes Place. The alleged damage associated with the retention of the trees is not considered to outweigh their public amenity value. A significant loss of public amenity to the Arts and Crafts character and appearance of Howes Place – which provides a cohesive and established landscaping design which centres around the positioning of the trees in combination with the historic design and layout of the properties - would arise from their proposed removal. The proposal would, therefore, be contrary to Cambridge Local Plan 2018 policies 61 and 62, NPPF 2023 paras.131 and 174, NPPG guidance para. 090 Reference ID: 36-090-20140306 and para. 093 Reference ID: 36-093-20140306 and other legislation, policies and guidance that seek to safeguard the environment.

- ii. with delegated authority to Officers in to carry through minor modifications / grammatical errors to the reason for refusal in consultation with the Chair, Vice Chair and Spokes.

23/108/Plan23/02071/S73 Botanic Place, 104-112 Hills Road

The Committee received a S73 planning application pursuant to ref.20/03429/FUL (original planning permission) for the following:

- i. Variation to condition 2 (approved drawings) to allow for the following amendments to the scheme: a) reduction in basement dig, b) a reduction in car parking spaces, c) improved cycle parking, d) relocation of servicing and loading to basement level, e) additional lower ground area for market hall, f) substitution of part roof plant enclosure for office space on both buildings, and g) improved quality of public realm and landscaping enhancements including additional mature tree planting.
- ii. Variation to effect discharge of planning conditions, 5 (Traffic Management Plan), 6 (Hydrogeological Matters), and 9 (Tree protection methodology).
- iii. Variation to revise condition 8 (Sustainable Urban Drainage) to allow demolition in advance of detailed SUDS information being provided.

The Principal Planner updated his report by referring to details on the amendment sheet.

- i. Text amendments.
- ii. Update to 'Recommendation' at para.10.1 (pg.78) removing request to delegate powers to Officers in respect of condition 6 (Hydrological/Hydrogeological matters). The Lead Local Flood Authority confirmed in letter dated 30/10/23 that it was now satisfied with the additional clarifications provided by the Applicant's consultant and accordingly recommends full discharge of condition 6. Condition 6 (including the reason) on pg. 82 should be included on any permission that may be given and read as per amendment sheet.
- iii. A late third party representation and request to speak at committee has been received despite not previously making a written representation within the statutory timescales.

The Committee received a representation in objection to the application from a resident of Vinter Terrace:

- i. Offices were obsolete post-covid, despite what market surveys (almost 2 years old) said. Sustainability required redesign for easy, low-carbon conversion to labs/flats.
- ii. Construction time should be minimised, too long a period of Hills Road disruption was proposed.
- iii. There was no parking on/near site. Requested a condition requiring contractors to provide compulsory Park&Ride shuttles for all personnel

and assist in parking enforcement in the immediate neighbourhood (5 mins walk). Illegal parking by Station Road contractors, sometimes with threats to residents, had been a major nuisance in Vinter Terrace.

Mr Higgins (Applicant's Agent) addressed the Committee in support of the application.

Councillor Thornburrow proposed an amendment to the Officer's recommendation requesting a road safety audit to co-ordinate this scheme with others eg Hills Road.

This amendment was **carried unanimously**.

Councillor Bennett proposed an amendment to the Officer's recommendation requesting the Applicant made a 'Secure by Design' application.

This amendment was **carried unanimously**.

The Committee:

Unanimously resolved to grant the S73 planning application in accordance with the Officer recommendation, for the reasons set out in the Officer's report (with delegated authority to Officers to make minor amendments to the conditions as drafted), subject to:

- i. the planning conditions set out in the Officer's report and amendment sheet;
- ii. delegated power to Officers to resolve the outstanding road safety audit with the local highways authority before planning permission was issued;
- iii. a satisfactory conclusion to the outstanding Statement of Conformity and any issues raised therein relating to the effect of the amended development proposal such that it complies with the EIA Regulations 2017;
- iv. informatives included on the planning permission in respect of:
 - a. encouraging provision of a shuttlebus service for contractors;
 - b. commercial application for 'Secure by Design'.

23/109/Plan23/02094/FUL 5 Hinton Avenue

The Committee received an application for full planning permission.

The application sought approval for the erection of a detached dwelling with bicycle storage, shed and air source heat pump, and alterations to windows/doors and cantilevered 'bay window' to existing dwelling including a dropped kerb.

Mr Fleming (Applicant's Agent) addressed the Committee in support of the application.

The Committee:

Unanimously resolved to grant the application for planning permission in accordance with the Officer recommendation, for the reasons set out in the Officer's report, and subject to the conditions recommended by the Officer (with delegated authority to Officers to make minor amendments to the conditions as drafted).

The meeting ended at 3.45 pm

CHAIR

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