



Appeal Decision

Hearing held on 8 August 2023

Site visit made on 8 August 2023

by Zoe Raygen DipURP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 August 2023

Appeal Ref: APP/Q0505/W/23/3317179

The Emperor, 21 Hills Road, CAMBRIDGE, CB2 1NW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by MPM Properties (FY) Ltd against the decision of Cambridge City Council.
 - The application Ref 21/05549/FUL, dated 17 December 2021, was refused by notice dated 13 October 2022.
 - The development proposed is Retention of building frontage façade and introduction of a mixed-use development comprising basement and ground floor public house and an Office/Business Use (Class E(g)) to the rear and on the upper floors along with access, cycle parking and associated infrastructure following demolition of existing buildings on site.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council refused the planning permission the subject of this appeal for five reasons. Prior to the Hearing, the Council confirmed it would not be defending two of those reasons for refusal regarding the impact of the proposal on highway safety and the viability of the public house. Interested parties though have raised concerns regarding these issues and therefore they were discussed at the Hearing.
3. As the appeal site is in a conservation area and concerns a listed building, I have had special regard to sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Main Issues

4. The main issues are:
 - The effect of the proposal on the character and appearance of the area having regard to the New Town and Glisson Road Conservation Area and St Pauls Church a Grade II listed building;
 - The effect of the proposal on highway safety;
 - The effect of the proposal on the viability of the public house;
 - The effect of the proposal on the living conditions of the occupiers of Dazely House with particular regard to outlook and light; and

- Whether the proposal provides an adequate level of bicycle parking for the public house.

Reasons

Character and appearance and Heritage assets

Significance

5. The appeal site lies within the New Town and Glisson Road Conservation Area (CA). The Council's New Town and Glisson Road Area Conservation Area Appraisal 2012 (CAA) focuses particularly on the areas of residential development within the CA and makes little mention of the character of Hills Road where the appeal site is located. However, Hills Road is part of the CA, and its special interest needs to be considered whether or not it is included in the CAA. I have therefore incorporated my own observations together with the evidence presented to me at the Hearing in my assessment of the significance of the CA.
6. It comprises residential streets either side of Hills Road, a major route into Cambridge from the railway station. The residential development is served by streets, of varying width off Hills Road. To the west is New Town, mostly nineteenth century buildings comprising terraces of small houses and larger villas developed from 1819. To the east is the further extension of the residential area around Glisson Road dating from the 1880s and 1890s also with rows of terraced houses and the railway station. There are also other discrete pockets of housing such as the courtyard development at St Pauls Walk identified as being important to the character of the CA in the CAA.
7. Along Hills Road, the character is more varied being mainly terraced development of two to three storeys in height reducing in height to the rear. This reduction in height contributes to a sense of space and the delineation between the commercial Hills Road frontage and the residential areas to the rear. This is demonstrated in the terrace of properties between Russell Street and Coronation Street, also identified as being buildings important to the character of the CA in the CAA. The ground floors of the properties along Hills Road are mainly commercial with a variety of uses above, but many retaining their original historic features.
8. Planting and trees within the CA are largely confined to the residential areas to be rear of Hills Road providing some relief to the built form. However, some of the larger buildings set in spacious plots accommodate more planting contributing to the open appearance of the area. To the far west of the CA is an area of open green common land forming part of a green wedge. The significance of the CA therefore, for the purpose of this appeal, lies within the importance of the historic built form displaying the nineteenth century commercial and residential evolution of this part of the city and the relationship of that built form to the spaces in between.
9. The appeal site has a two-storey building with a slightly lower rear off shoot. It is used as a pub and has a garden area at the back together with space for car parking. The side boundary to St Pauls Place to the north is formed from fencing and the return elevation of the building. The pub frontage has interest and contributes positively to the streetscape in which it sits. Other than displaying the characteristic low level off shoot to the rear, the remainder of

the building has little interest. Nevertheless, as a whole the building contributes positively to the significance of the CA displaying positive historic features and form. However, visually the rear space has little merit.

10. St Pauls Church (the Church) is a Grade II listed building constructed in 1841, with later additions in 1864 and 1893, from red brick with blue brick diapering, stone dressings and slate roofs. Its significance, for the purposes of this appeal, is largely derived from its architectural importance, including its stained-glass windows, and place in the historic evolution of this nineteenth century suburb.
11. The main part of the Church is largely hidden in views from the south due to the intervening built form. There are some glimpsed views of the side of the building, but this is mainly down to clearance of previous buildings. From the north there are more open views due to the set back of later modern buildings. However, it is the tower is to the front of the Church which is particularly visible along Hills Road and forms an important part of the streetscape. Its setting therefore covers a large area along Hills Road from where the tower can be seen. This allows an appreciation of the building in the streetscape and its social contribution to the evolution of the area contributing to its significance.
12. The appeal building is to the south of the Church and its modest built form means it integrates effectively into historic streetscene and does not compete with the Church thereby contributing positively to its setting and significance.

Effect on significance

13. The front façade of the building would be retained. However, the remainder of the building would be demolished causing some harm through the loss of a building that displays the historic characteristics of buildings fronting Hills Road.
14. Most of the existing structure would be replaced with a three and four storey building extending the full length of the appeal site along St Pauls Place and wrapping round the adjacent building with a single story entrance to Cambridge Place. The proposal would introduce an active and pleasing elevation to St Pauls Place. However, it was confirmed at the Hearing that it would be slightly higher than that the recently constructed at Dazely Place on the corner of Cambridge Place and Hills Road¹. Consequently, due to its height and, particularly its extent along St Paul's Place, it would form a large mass that would dominate views from Hills Road, Cambridge Place and St Pauls Place and would conflict with the predominant historic characteristic of building form reducing to the rear of the Hills Road frontage displayed elsewhere in the CA. Moreover, it would harmfully erode the sense of space between Hills Road and St Paul's Walk to the rear, dominating that residential area due to its size and proximity.
15. I have had regard to the examples provided to me of Union Road and Coronation Street by the appellant. At Union Road there is three storey development to the rear, but this is slightly subservient to the building fronting Hills Road. On the northern side of Coronation Street there is a modern four storey development to the rear of three storey on the corner, beyond which is an open parking area. On the southern side of the road the development to the

¹ 17/0265/FUL

rear of Hills Road is higher although there is a significant space between the buildings. Nevertheless, both sides of the street display modern development that is contrary to the prevailing historic characteristic. However, both streets are wider than St Pauls Place and do not involve an extension to a two storey building at the scale proposed by the appeal proposal. I also saw three storey development on Cambridge Place, but this was some distance from Hills Road. Further south along Hills Road, I also saw three storey development, but this was in the form of detached villa style development set in spacious grounds back from Hills Road. All examples therefore possess different specific circumstances to that of the appeal site such that meaningful comparisons cannot be made sufficient to justify the appeal proposal.

16. The key issue, in my view, is the massing of the building. Although there are examples of other high buildings within the CA there are very few examples of such a large building in proximity to others which extends as far back from Hills Road as the proposed building. The key here to the character of the CA is a domestic form and size of architecture together with the space around buildings. Where there are larger buildings, they are generally on wider roads or have space around them. Here the taller elements would be close to the two storey pub at the front, Dazely House and, due to the narrowness of St Pauls Place, 19 Hills Road as well as adjacent to the red brick building to the rear of the site. As a result, there would be little space around the proposed building to mitigate the large scale and massing of the rear element in particular to reflect the character and appearance of the CA. There would also be an awkward juxtaposition between the proposed building and the houses on St Pauls Walk due to the extension and height of the structure within the site close to those 2 storey dwellings.
17. I appreciate that the upper storeys of the new building would be set back, but only by a small amount on the St Pauls Place elevation. Similarly, the whole building would be set back on St Pauls Place by about a metre. However, the street would still be narrow, and these measures would not be sufficient to mitigate the dominance of the proposal to the streetscape from various vantage points along Hills Road north of the proposal, St Pauls Place and Walk and Cambridge Place harming the character and appearance of the area and the CA.
18. The existing tree on Cambridge Place would be retained and the planting of a replacement tree within the development for one previously removed could be secured by condition. I am therefore content that there would be no harm caused to trees by the proposal.
19. The retention of the existing pub façade, and the set back of the upper storeys from Hills Road means that the view towards the Church along Hills Road would be very similar to that existing now. Furthermore, the building would not be seen in direct views of the Church from St Pauls Walk. While it would block the occasional glimpse of the Church from Cambridge Place and Glisson Road, these views do not contribute in any great way to the significance of the building. I am satisfied therefore that the proposal would not harm the significance of the listed building.
20. For the reasons above, I conclude that the proposal would preserve the setting of St Pauls church a grade II listed building. It would though be harmful to the character and appearance of the area having particular regard to the New Town

and Glisson Road Conservation Area. Therefore, it would be contrary to policies 55, 56, 57, 58 and 61 of the Cambridge Local Plan 2018. These require that development identifies and responds positively to existing features of historic importance, uses appropriate local characteristics to help inform siting, massing, scale and form of new development, respect the space between buildings where it contributes to the character of an area and preserves or enhances the significance of heritage assets and the wider townscape.

Highway safety

21. The principal objection on highway grounds comes from the representatives of St Pauls Place Company (SPPC) and Cambridge Place Residents (CPA). Their concerns relate to the construction and fitting out stages of the proposed building as well as the ongoing servicing needs of the building post construction in the absence of a dedicated off street servicing area.
22. The residents submitted photographic evidence regarding the issues surrounding the construction and fit out of Dazely House together with ongoing concerns since construction.
23. Cambridge Place is narrow and has a permanent parking restriction running along its length. There is insufficient width for cars to pass at its entrance where it narrows. If vehicles are parked elsewhere along Cambridge Place passing can be difficult. The photographs show that there have been times when vehicles have been parked in contravention of the parking restrictions during the construction and fit out of Dazely House and subsequently from deliveries to the property This made driving conditions hazardous, particularly at the entrance to Cambridge Place. If cars turn from Hills Road and there is an obstruction on Cambridge Place it would not be safe to reverse back onto Hills Road, given that it is a very busy route together with a well-used cycle lane.
24. When the appeal regarding Dazely House was assessed², the Inspector considered that the parking restriction would be sufficient to ensure that such parking would not happen. While that might be the case if there were to be effective enforcement, someone would need to be in the area all the time to ensure parking on the double yellow lines did not occur at any time.
25. While this proposal could not be held accountable for the existing highway issues it is imperative that it does not make the situation worse. The appellant aims to prevent such parking occurring in association with the proposed development by having an appropriately worded condition securing the submission and implementation of a construction management plan utilising the area that would be available during construction and refit off road and the permanent presence of an onsite construction manager.
26. After construction and fitting out there would be a manager on site at all times to deal with inappropriate parking. There would, in any case, be limited need for service deliveries to the office building which could be co-ordinated to ensure no parking other than in accordance with the allowed loading times in the surrounding area. The public house is already serviced during the permitted loading hours in the area available on Hills Road and this would not change. The Council and the Highway Authority agree with this approach. This seems an acceptable way forward to me. I appreciate that this is similar to the

² APP/Q0505/W/16/3146035

approach taken by the previous Inspector. However, previous experience should ensure that the management plan secured by condition would be particularly robust taking advantage of space available off road and effectively enforced.

27. I understand residents' concerns regarding the access to the development itself from Hills Road and the potential for increased accidents. They consider this may particularly involve cyclists due to conflict with vehicles turning into Cambridge Place, given the potential increase in traffic and lack of off road arrangements for servicing.
28. However, the development would be car free with only one parking space to be provided and servicing would be minimal. With the above controls in place for the construction and fitting out periods I am not convinced that the proposal would either add a significant level of traffic using the junction or lead to further parking on Cambridge Place that would make the existing situation more hazardous.
29. For the reasons above, I conclude the proposal would not be harmful to highway safety. Consequently, there would be no conflict with policies 80(c), 81 and 82 of the Cambridge Local Plan 2018 and the Framework. These require that development provides safe and appropriate access to adjacent road, pedestrian and cycle networks, there is no unacceptable transport impact and there is adequate provision for servicing.

Living conditions

30. Dazely House contains a number of flats. On the first and second floors flats have windows with a view from the rear elevation of the building. Currently that view is open in all directions looking towards the single and two storey buildings to the rear some distance away.
31. The siting of the proposed building would mean a very high wall extending beyond the rear elevation of Dazely House with an offshoot projecting towards Cambridge Place about 7 metres from the windows.
32. The Building Research Establishment (BRE) document 'Site Layout Planning for Daylight and Sunlight: A guide to good practice' outlines two rule of thumb tests which determine whether or not further detailed daylight and sunlight tests are required. Due to its proximity the proposed development would be within the 45 degree (horizontal and vertical) when taken from the two closest windows in the first floor flat and the closest window in the second floor flat, all serving an open plan lounge /diner/kitchen.
33. The appellant has submitted details of both the no sky-line test (NSL) and the vertical sky component test (VSC) both to assess impacts on the daylight received by these windows and rooms.
34. The NSL test considers the size of the window, room layout as well as multiple windows serving one room (as is the case with this proposal). In this instance, the report concludes that the assessed windows retain in excess of 80% of the current values as required by the test. With regards the VSC measurements, the BRE recommendations state that this figure should be no less than 27 proposed VSC or if reduced below this, no less than 80% of its former value.

35. The VSC results show that the flat on the second floor would have a VSC of 24.7 with a loss of 35.8% light. However, this room has a second large window that is unaffected by the development. Therefore, an acceptable level of daylight would be retained.
36. The Council confirmed at the Hearing that its primary concern was the effect on the two closest windows of the first floor flat serving the lounge/diner/kitchen which the reports show would both suffer a reduction in light with the VSC of one being 26.2 and the other 20.6. While I acknowledge that the latter figure is low, the first is only marginally below the recommended figure of 27. Furthermore, the BRE Guidance recommends using its guidance flexibly including in an historic city centre where a higher degree of obstruction may be unavoidable if new developments are to match the height and proportions of existing buildings which would be the case here in respect of Dazely House. I am satisfied therefore that there would not be an unreasonable impact on the daylight received by the windows and rooms in the two flats. Equally due to the northern orientation of the proposed building there would be no unacceptable loss of sunlight.
37. While the wall extending to the rear of Dazely House would be high, this would only be visible in oblique views from the window furthest from the proposed building with open views in all other directions retained. The small projection would fall within the direct view from the windows closest to the proposed building, but it would not extend across the whole window, and it would be a sufficient distance from the windows to avoid a harmful overbearing presence.
38. For the reasons above, I conclude the proposal would not be harmful to the living conditions of residents of Dazely House or 19 Hills Road with particular regard to outlook and light. The proposal would accord therefore with policies 55, 57 and 58 of the Cambridge Local Plan 2018 and Paragraph 130(f) of the Framework. Together these require that development delivers a high standard of amenity and does not unacceptably visually dominate neighbouring properties.

Cycling parking

39. There is no dispute between the parties that the proposal would provide sufficient cycle parking for the office use. After some debate at the Hearing, it was agreed between the main parties that the public house use would require 11 cycle parking spaces in total, four of these would be for staff and 7 for visitors to the dining part of the public house in accordance with the standards set out in Appendix L of the Local Plan. Two of the staff spaces would be provided internally within the ground floor and the other two outside the office entrance on Cambridge Place. The seven visitor spaces which would also be provided outside the office entrance on Cambridge Place and shared with visitors to the offices. Both the Council and representatives of the SPPC and CPA raise concerns regarding the workability and enforcement of such an arrangement for visitor parking.
40. Although the cycle parking would be distant from the public house, it would not be by a significant amount. Furthermore, it was agreed at the Hearing that the appellant would provide signage at the pub which would direct visitors to the available parking at Cambridge Place and away from the local area. This would also be publicised on the pub's website. All of those details could be secured by the imposition of an appropriately worded condition. This would go some way

to addressing the concerns of the representatives from the Church regarding people using their cycle parking. It would not be possible to require the appellant to carry out works on third party land by condition.

41. The cycle parking would be managed by an on-site presence in association with the offices and this would also be secured via condition requiring a cycle management plan. Furthermore, the public house would be in an accessible location by means of walking and public transport and therefore, together with the cycle parking provision there would be sustainable travel options to and from the building.
42. For the reasons above, with the appropriate conditions in place, I conclude that there would be adequate provision for bicycle parking for the public house at the premises. The proposal would therefore be in accordance with Policy 82 of the Local Plan which requires that development should provide at least the cycle parking levels in Appendix L of the Local Plan.

Viability

43. The Council raise no concerns regarding the viability of the public house based on the reports submitted by the appellant³ and the Council's own independent report into those submitted by the appellant⁴.
44. The representatives of SSPC and CPA are concerned that the lack of servicing provision, cycle parking and bin storage would harm the functioning of the public house given that they are currently available, off-road, in the area to the rear of the building.
45. Bin storage would be provided internally within the ground floor storage area. I have considered the cycle parking and servicing provision in the paragraphs above and found there to be acceptable solutions. Therefore, I do not accept that these issues would harm the viability of the public house.
46. The representative of CAMRA addressed the Hearing and while they agreed that the proposed public house could operate viably, they considered it was a missed opportunity to make the most of the public house and operate at its maximum potential. This was due to the loss of the garden area, the managers accommodation and the provision of the dining area in the basement leading to loss of views for diners. These are all good points, but many pubs operate without these facilities especially within city centres. There is no substantive evidence before me to lead me to question the views expressed in the reports submitted on this issue.
47. For the reasons above, I conclude that the proposal would not have a harmful impact on the viability of the public house and therefore would be in accordance with policy 76 (d) of the Local Plan. This requires that the viability of the public house use will not be adversely affected, sufficient cellarage, beer garden, parking and dining/kitchen areas will remain to retain a viable public house operation.

Heritage and Planning Balance and Conclusion

48. I have found that the proposal would cause harm to the character and appearance of the CA. Paragraph 199 of the National Planning Policy

³ Viability Assessment, Davis Coffey Lyons 9 June 2022 & Expert Report Regarding Viability AG & G 13 June 2022

⁴ Christie & Co July 2022

Framework (the Framework) advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 200 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets or from development within their setting and that this should have a clear and convincing justification. In this instance, given that this is just one part of the CA, I find the harm to be less than substantial, but nevertheless of considerable importance and weight.

49. Under such circumstances, paragraph 202 of the Framework advises that this harm should be weighed against the public benefits of the proposal.
50. The appellant considers that the proposal would address an acute supply/demand deficit within the prime central office submarket increasing GVA and employment. The Council was unable to advise at the Hearing whether it considered there is a deficit of supply for offices in the city. However, policy 40 of the Local Plan forecasts a growth in the requirement for offices and makes allocations on that basis. Although not an allocation, the appeal site is located near to the railway station which is highlighted as an area for growth. It would generate a number of jobs and provide small scale offices to meet a particular requirement supporting local economic growth attracting significant weight.
51. The proposal would retain a viable and improved public house space and is in an accessible location providing a car free scheme. The façade of the public house would be retained and improved. There would be some benefit to the appearance of St Pauls Place through the introduction of an active frontage. The reduction of cars visiting the site is positive but would be a minor benefit given the limited extent of the parking currently available on site.
52. The proposal would also utilise underdeveloped brownfield land and achieve significant biodiversity net gain through the introduction of a green roof and planting. Furthermore, it would deliver a minimum BREEAM excellence standard aiming for outstanding.
53. These are without doubt very significant public benefits of the scheme. However, they would not be sufficient to outweigh the considerable importance and weight attach to the harm to the CA. Overall, the proposal would be contrary to the Act and the provisions within the Framework as detailed above, which seek to conserve and enhance the historic environment.
54. As there would be harm to the character and appearance of the area and the CA then the proposal would conflict with design and conservation policies within the development plan. The benefits I outline above would not be sufficient to outweigh that conflict. Therefore, on balance the appeal should be dismissed.

Zoe Raygen

INSPECTOR

APPEARANCES

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Local Resident

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Local Resident

Robert McCridale

Local Resident

Chisun Wong

Local Resident

Alistair Cook

CAMRA

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Appeal Hearing Attendee List Appellant
- 2 Wording of additional cycle parking condition
- 3 Suggested site visit itinerary.