

# Recent Appeal Decisions Concerning Public Houses in Cambridgeshire

This pack includes the following appeal decisions

- The Unicorn, 15 High Street, Cherry Hinton, APP/Q0505/A/11/2167572;
- The Carpenters Arms, 182-186 Victoria Road, APP/Q0505/A/12/2168512;
- The Plough, High Street, Shepreth, Royston, APP/W0530/A/11/2167619;
- Royal Standard, 292 Mill Road, APP/Q0505/A/12/2174210;
- Rosemary Branch, 67 Church End, APP/Q0505/A/12/2183797



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# Appeal Decision

Hearing held on 18 April 2012

Site visit made on the same day

**by Isobel McCretton BA(Hons) MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 19 June 2012**

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**Appeal Ref: APP/Q0505/A/11/2167572**

**The Unicorn, 15 High Street, Cherry Hinton, Cambridge CB1 9HX**

- 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 Greene King Retailing Ltd against the decision of Cambridge City Council.
  - The application Ref. 11/1105/FUL, dated 14 September 2011, was refused by notice dated 14 December 2011.
  - The development proposed is change of use from public house to single dwellinghouse with access onto High Street.
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## Decision

1. The appeal is dismissed.

## Main Issue

2. The main issue is the effect of the loss of the public house on the provision of local community facilities in the area.

## Reasons

3. The appeal site is located on the western side of High Street on an 'island' between High Street and Mill End Road. The appeal site comprises a 2-storey public house with an open plan main bar and central bar counter, and a single storey, flat-roofed extension containing a dining area, toilets, kitchen and store. The first floor is given over to ancillary residential accommodation which provides a 3-bedroom flat for the licensee. Outside there is a trade garden area surrounded by a brick wall, much of which is dominated by a mature ash tree located on the boundary with Mill End Road. To the north of the building is tarmacked area used for parking.
4. It is proposed to convert the property into a 4 bedroom dwelling. Part of the single storey extension would be demolished and the outside space would provide a garden/terrace, parking and turning area (accessed via a new crossover), cycle and bin store. The existing parking area would be enclosed by railings and planted. The Council takes no issue with the details of the design and layout and I have no reason to disagree.
5. Before its closure The Unicorn was operated as a tenanted public house under the support of the appellants. The appellants have made a considerable investment in recent years in both capital sums to refurbish the premises and in supporting licensees (e.g. with reduced/no rent), but successive tenants

- have failed to be able to make the business work. The pub ceased trading on 30 June 2011. The appellants cite factors such as changing drinking habits, heavily discounted alcohol in supermarkets, competing pressures on the leisure pound, increases in duty, increased costs of providing satellite TV and live sports, the smoking ban, and competition from other pub businesses as combining to undermine the viability of this and similar pubs.
6. The appellants own the other two pubs in the village: The Red Lion adjacent to the appeal site and The Robin Hood within walking distance on the edge of the village. They are both larger and offer much bigger dining, parking and garden/play space. The Robin Hood trades successfully under the 'Eating Inn' brand. The Robin Hood had experienced a significant decline in trade up to 2011 but saw better trade after the closure of the appeal premises. It has recently reopened after capital investment.
  7. The Council's reason for refusal was based on the advice in PPS4<sup>1</sup>. However this document was superseded in March 2012, shortly before the Hearing, by the National Planning Policy Framework (The Framework). Among other things, The Framework sets out that planning policies and decisions should plan positively for the provision and use of community facilities (including public houses) to enhance the sustainability of communities and residential environments; guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs; and ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable and retained for the benefit of the community.
  8. The premises have not been marketed. The appellants argue that there is no policy requirement, either in the Local Plan or The Framework to do so, and that their efforts in recent years to support a succession of licensees have shown that the business is not a viable proposition. At the Hearing the Council acknowledged that, in response to concerns about number of pub closures in the area, it is carrying out background work to produce the evidence base for supplementary planning guidance as a basis for decision making on this issue, as was required by PPS4. As yet though, there is no such adopted policy.
  9. It is evident that a number of pubs in the District have suffered from the changes in the business which led to the closure of The Unicorn. However there has been no opportunity for this concern to be run by another company or as a non-tied operation. For instance, at the Hearing the representative from the local CAMRA branch suggested that these were the type of premises sought by microbreweries which are becoming increasingly popular. It is also a different type of establishment from the more dining/family oriented Red Lion and Robin Hood and, under different ownership, has the potential to offer local residents a wider choice of drinking establishment. Alternatively, I note that an assessment of the local centre<sup>2</sup> highlighted the fact that the village could benefit from some restaurant or café provision.
  10. The appellants argue that the fact that there were few objections to the proposed change of use indicates that the pub is not a valued facility or one which meets local residents' day to day needs. Nevertheless, the pub had been closed for several months before the application was made. The Framework is

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<sup>1</sup> Planning Policy Statement 4: Planning For Sustainable Economic Growth (2009) (PPS4).

<sup>2</sup> Cambridge Sub-Region Retail Study

concerned to 'deliver the social, recreational and cultural facilities and services the community needs' and 'to enhance the sustainability of communities and residential environments'. This is a settlement with a growing population and I consider that there needs to be clear evidence that the site is no longer suitable for social/community use before a change of use such as that proposed is considered.

11. The appeal property is in a prominent location on the High Street and, unlike The Robin Hood, is within the defined local centre. The lack of firm evidence that the premises are of no interest to any other operator is such that I consider that this would fail to guard against the unnecessary loss of the pub. Moreover there is nothing against which to judge whether it could be developed and modernised in a way which is sustainable and retained for the benefit of the community. In the absence of such information I consider that the requirements of The Framework are not met.
12. I conclude that the proposed development would result in the loss of a community facility for which there is no clearly substantiated evidence that there is no longer a need, contrary to the objectives of The Framework.

### **Conclusion**

13. For the reasons given above I conclude that the appeal should be dismissed.

*Isobel McCretton*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Aaron Smith BA(Hons) DipTP, MRTPI      Caldecotte Consultants

Richard Crewe-Read      Corporate Estate Manager, Greene King plc

### FOR THE LOCAL PLANNING AUTHORITY:

John Evans      Senior Planning Officer

Bruce Waller      Senior Planning Officer (Planning Policy)

### INTERESTED PERSONS:

Carolin Göhler      CEO Cambridge Past, Present and Future

Paul Ainsworth      CAMRA Cambridge and District Branch

Cllr Mark Ashton      City Councillor, Cherry Hinton

### DOCUMENTS SUBMITTED AT THE HEARING:

Document 1      Copies of Licences for The Unicorn and The Red Lion submitted by the appellant

Document 2      Suggested tree protection condition submitted by the Council

### DRAWINGS:

A1-8      Drawings submitted with the planning application (5442/00, 5442/03, 5442/04, 5442/05A, 5442/06A, 10265ea-01, 10265ea-02, 10265ea-03A)



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# Appeal Decision

Hearing held on 10 May 2012

Site visit made on 10 May 2012

**by Ian Radcliffe BSC (Hons) MCIEH DMS**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 9 July 2012**

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**Appeal Ref: APP/Q0505/A/12/2168512**

**The Carpenters Arms Public House, 182-186 Victoria Road, Cambridge CB4 3DZ**

- 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 Mr Carr against the decision of Cambridge City Council.
  - The application Ref 11/1066/FUL, dated 9 September 2011, was refused by notice dated 25 November 2011.
  - The development proposed is the conversion of the Public House and letting rooms to residential apartments.
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## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues in this appeal are
  - whether the proposal would result in the loss of a local facility important in sustaining the social life of the community; and, if it would, whether such a facility would be viable to operate; and,
  - the effect of the proposal on on-street parking provision.

## Reasons

### *Principle of development*

3. The Cambridge Local Plan (LP) was adopted in 2006. Policies 3/1 and 5/2 support the conversion of non residential buildings into self contained dwellings in order to make efficient use of land and assist in meeting the housing targets for the city.
4. The National Planning Policy Framework (the Framework) has recently come into force. The Framework at paragraph 70 advises that planning decisions should enhance the sustainability of communities by planning positively for community facilities, such as public houses, and guard against their unnecessary loss. However, LP policy 5/11, which seeks to prevent the loss of community facilities, fails to identify public houses as such a facility. The LP is therefore in conflict with the Framework. However, as the Framework is an important material consideration and a more recent publication than the LP, I attach significant weight to it. I shall therefore treat public houses as a community facility.

### *Value of the public house to the local community*

5. The Carpenters Arms is a 19<sup>th</sup> Century public house in a residential urban area of a similar era to the north of the city centre. Development is characterised

by terraced housing, some of which is in multiple occupation. This has resulted in a high density of development and comparatively high number of people living in a small area. The corner position of the public house means that it is in a prominent position within this close knit residential part of the city.

6. For a public house to provide a service to a local urban area it should be within a reasonable walking distance for the range of customers who are likely to use it. In my estimation, and based upon the guidance contained within the Urban Design Compendium, a public house could reasonably serve an area within a 5 to 10 minute walk (400m to 800m). On this basis there are 2 public houses to the west of the appeal site on Histon Road and 4 public houses to the east around the junction of Victoria, Chesterton and Milton Roads within a reasonable walking distance. Nevertheless, by virtue of their larger size or location close to the city centre and its tourist attractions these establishments do not have the same character as the Carpenters Arms, which by virtue of its location, minimal off road parking and modest size is aimed at serving the local community. Whilst the loss of this public house would therefore not reduce the local community's ability to meet its day to day needs it would result in the loss of a facility of value to it.

#### *Viability*

7. The Carpenters Arms has been a local facility of service to the community for well over 100 years until it closed relatively recently. When the public house was trading it was tenanted. The appellant stated that the last 3 landlords of the public house over the last decade or so were unable to operate the business at a profit. This supports the view that whilst it has been a valued local facility it has struggled in recent years.
8. I saw evidence in terms of a new bar that some investment in the building had been made by the former owners Punch Taverns. Nevertheless, landlords of tenanted public houses, unlike freehold landlords, are restricted in terms of the range of beers that can be sold and have less incentive to invest in a building they do not own. This may well have affected the attractiveness and thus the popularity of this community facility.
9. The public house was placed on the open market in 2011 when the appellant purchased it. However, as there was no evidence that it was priced and marketed as a public house for a reasonable length of time, with an agent who specialised in the licensed trade, it has not been demonstrated that a different approach to operating the public house would not be viable.
10. In my assessment, based upon the policies of the Framework, in order to discover whether a change of use of the building, which has been a valued community facility, is necessary it should first be marketed as a public house. This approach would also be consistent with how applications for changes of use in relation to other local community facilities are dealt with under policy 5/11 of the Local Plan. The proposal would therefore be contrary to the objectives of the Framework and the general thrust of policy 5/11 of the Local Plan.

#### *Parking*

11. The building is located just to the north of the Residential Parking Zone. On road parking restrictions prevent any parking on Victoria Road, or French's Road in the vicinity of the building. Given this consideration, as well as the small car park associated with the public house and its local character, relatively few customers would have driven to the public house. As a

consequence, the proposed change of use would free up little, if any, on-road parking.

12. The proposed conversion into 7 flats with only 1 car parking space reserved for a disabled resident would increase the pressure for on-road parking. The boundary treatment to the front garden on Victoria Road would also prevent the continued use of the space to the front of No 180 for the off-road parking of a car. Understandably the owner of No 180 is aggrieved at this but, as a matter of civil law, this is not a material planning consideration. Subject to the enforcement of on-street parking controls in the area however the additional demand for on-road parking would not harm highway safety.
13. The appeal site is also in a sustainable location where many day-to-day facilities can be accessed on foot, by bicycle or using public transport. As a consequence, many future residents may choose not to own a car. The increased pressure on on-road parking resulting from future occupants who decide to have a car would be inconvenient to local residents, but would serve to make alternative, more sustainable, modes of transport more attractive than a car.
14. Taking all these matters into account, the level of on-site parking to be provided would result in acceptable levels of on-road parking which would not harm highway safety. The proposal would therefore comply with the objectives of policies 5/2 and 3/10 of the Local Plan which seek adequate parking provision.

#### **Other matters**

15. The conversion would result in the creation of 6 units of accommodation with one bedroom and one unit with 2 bedrooms. Given the size of the one bedroom units it is quite possible that they would be occupied by couples. The two bedroom unit would have sufficient sleeping space for a couple and a child. A total of up to 15 people in 7 households could therefore reasonably be expected to live in the converted building. The private amenity space provision for the development would be a communal terrace of 22 sqm and an area between the parking space and refuse bins / cycle storage. In my assessment, this would be an inadequate level of provision and would result in unpleasant living conditions for future occupiers. This finding adds weight to my concerns regarding the adverse effects of the proposal.

#### **Conclusion**

16. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Ian Radcliffe*

Inspector

## **APPEARANCES**

### FOR THE APPELLANT:

Mr Kratz  
BA(Hons) Solicitor LMRTPI

Birketts LLP

Mr Carr

Appellant

### FOR THE LOCAL PLANNING AUTHORITY:

Miss Linford MRTPI  
Senior Planning Officer

Cambridge City Council

Mr Waller  
Senior Policy Officer

Cambridge City Council

Councillor Mike Todd-Jones

Cambridge City Council

### INTERESTED PERSONS:

Mr Cook

Cambridge & District Campaign for Real Ale

Dr Hunter

Freehold owner of 180 Victoria Road

## **DOCUMENTS SUBMITTED AT THE HEARING**

- 1 Notification letter detailing the time, date and location of the hearing, together with a list of persons notified.
- 2 Policy 5/11 'Protection of Existing Facilities' of the Cambridge Local Plan 2006.
- 3 Newspaper cutting 'Arbury pub could be turned into flats' Cambridge News, 22 September 2011.

## **PLANS SUBMITTED AT THE HEARING**

- A Schematic map of public houses in Cambridge ([www.cambridge-pubs.co.uk](http://www.cambridge-pubs.co.uk)).
- B Copy of Cycle / Bin Store drawing ref C/2332/11/PL-03 Rev A considered by the Council when it determined the application, but missing from the appeal file.



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# Appeal Decision

Hearing held on 11 April 2012

Site visit made on 11 April 2012

**by L Rodgers BEng (Hons) CEng MICE MBA**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 16 May 2012**

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**Appeal Ref: APP/W0530/A/11/2167619**

**The Plough, High Street, Shepreth, Royston SG8 6PP**

- 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 (Royston) Ltd against the decision of South Cambridgeshire District Council.
  - The application Ref S/0828/11, dated 15 April 2011, was refused by notice dated 6 September 2011.
  - The development proposed is described as a change of use from a restaurant (Use Class A3) to a residential dwelling (Use Class C3) together with landscape works to the site frontage.
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## Decision

1. The appeal is dismissed.

## Main Issue

2. The effect of the proposed development on the provision of community services and facilities in the area.

## Procedural matters

3. At the hearing the Appellant submitted a true copy of a Planning Obligation made pursuant to s106 of the Town and Country Planning Act 1990. This is a material consideration that I shall take into account in my determination.
4. The National Planning Policy Framework (NPPF) was published on the 27 March 2012. This was after submission of the appeal but before the hearing - at which the parties were given the opportunity to comment as to its effect on their cases. In determining the appeal I have had regard to the comments made at the hearing as well as to the NPPF itself.

## Reasons

### *Background*

5. The Plough is a detached, brick building with a large garden and extensive parking. It is centrally situated within the village of Shepreth and the building itself lies within the Shepreth Conservation Area. The Plough has historically been used as a public house (Use Class A4) and more recently as a bar/restaurant (use Class A3). However, the property is currently not in use as a restaurant and the proposal seeks to convert the premises into a single residential dwelling.

6. Policy SF/1 of the South Cambridgeshire Local Development Framework Development Control Policies DPD 2007 (DPD) aims to protect village services and facilities where their loss would cause an unacceptable reduction in the level of community or service provision in the locality. Village services are said to include shops, post offices, community meeting places and village pubs - although the list is clearly not exhaustive.
7. The policy requires a number of matters to be considered in determining the significance of any loss including the established use, its existing and potential contribution to the social amenity of the local population, the presence of other village services and facilities and the future economic viability of the use including, where appropriate, financial and marketing information.

*The established use of the premises*

8. Although The Plough had been used as a public house it was converted into a restaurant and bar immediately following its purchase by October Restaurants in 2004; photographs submitted by the Appellant show that substantial changes were made to both the internal layout and decor.
9. The Council accepts that the established use is that of a restaurant in Use Class A3 and confirmed at the hearing that planning permission would be required to revert to an A4 pub use. Whilst local residents state that they were able to use the bar without dining in the restaurant, a matter not disputed by the Appellant, the physical changes shown in the photographs and my observations on site strongly suggest that the bar use was ancillary to that of the restaurant.
10. The bar/restaurant use ceased on the 25 December 2010 and, according to the Appellant, The Plough went into liquidation on the 10 February 2011. Since that time the liquidators have removed the restaurant's fixtures and fittings - including the kitchen equipment. It is therefore abundantly clear that the premises have not been used as a restaurant for more than a year and, notwithstanding that the bar could be used independently of the restaurant, the premises have not functioned in the manner normally expected of a public house for something in excess of seven years.
11. The Appellant points out that the lawful use of the premises is as a restaurant (Use Class A3) and moreover that, when in business, The Plough was regarded as a 'high end' restaurant. The Appellant further argues that such premises have a large catchment area and are unlikely to survive solely on custom from the local populace. As such, The Plough should not be regarded as a village service or facility to be considered under Policy SF/1. Indeed, the Appellant suggests that The Plough should be regarded as a facility within a village rather than a village facility.
12. I have some sympathy with the Appellant's view and it is highly unlikely that The Plough, as a 'high end' restaurant (local residents confirming that prices reflected this description), functioned as a social hub for the village in the way that might normally be expected of a traditional pub.
13. Nevertheless, looking solely at the last use of the premises seems to me to be taking a view which is rather too narrow and simplistic. Indeed, as a number of residents pointed out, if the last use was taken as the sole determinative criterion, changing a pub to Use Class to A3 through permitted development would be a way of circumventing policy restrictions seeking to prevent the loss

of pubs as community facilities. Policy SF/1 itself notes that in addition to considering the established use of the premises, regard must also be had to its potential contribution to the social amenity of the local population.

14. Given that The Plough was once a pub, and notwithstanding the need for planning permission and the appropriate investment, there must at least be the potential for The Plough to be returned to that use. I shall therefore move on to consider the other matters identified in Policy SF/1.

#### *Village services and facilities*

15. Policy SF/1 notes that consideration will be given to the presence of other village services which provide an alternative with convenient access by good local public transport services, or by cycling or walking. Although Shepreth does have a number of other services and facilities these are clearly limited. The recently opened coffee shop and the local community hall provide some sort of community focus, but the only facility which can be regarded as providing a realistic alternative to the potential use of The Plough as a public house is the 'Green Man' pub.
16. The Green Man is described as being in the Parish of Shepreth. However, I saw on my visit that it is a considerable distance from the village centre (around 1.6km). It also lies on the opposite side of the A10 from the village centre, the A10 being described by the Council as a 'busy and fast trunk road' - a description with which I concur. Having regard to its location and its public transport links, I am of the view that the Green Man is unlikely to appeal to villagers, other than perhaps those prepared to travel by car. As such its location would act against it becoming a social hub for the village and in my view it would not provide a comparable alternative to a pub sited in the village centre.
17. Shepreth is described in the South Cambridgeshire Local Development Framework Core Strategy (CS) as an 'Infill Village' and the Council notes that "Infill villages are amongst the smallest in South Cambridgeshire, have a poor range of services and facilities and it is often necessary for local residents to travel outside of the village for their daily needs". As such it seems to me that the loss of a potential facility would be acutely felt.

#### *Viability*

18. The Appellant has submitted information to show that the former restaurant business operating from The Plough did not prove to be viable, a matter underlined by the fact that the business closed and went into liquidation. The Appellant has also put forward a letter sent to the liquidator of October Restaurants Ltd by the Royal Bank of Scotland Plc's debt recovery department in which it is stated that re-opening of the pub in the current economic climate would not be supported as it is not seen as being financially viable.
19. In contrast, the Council has made submissions suggesting that the site is viable in its current land use. In the Council's view The Plough is capable not only of sustaining a level of net profit adequate to provide an owner operator with appropriate remuneration, but also to fund loan interest and capital repayments for site purchase and essential investment.
20. The Council's assessment is based on a number of assumptions and as such must be subject to some risk. Although some of the factors underlying the

Council's assessment are reasonably easy to account for, such as the condition of the building, matters such as the historic trading record as a pub/restaurant are less reliable as predictors of future performance – particularly taking into account the fact that the premises have not traded as a pub for some time and the changes that have since occurred to the economic climate.

21. Nevertheless, the Appellant accepted at the hearing that despite the failure of the former business it ought to be possible to run some sort of viable pub/restaurant business from the premises. The Plough is reasonably well located and with its garden and car park has appropriate facilities. Despite the need to re-equip the kitchens I see no reason to demur from the view that a viable business could be created.

### *Marketing*

22. The premises were first put onto the market as a restaurant and bar in May 2007 by Christie & Co. The initial asking price was for 'offers in excess of' £675k freehold and during the course of 2007 the premises were marketed through listing on the agent's web site as well as through the circulation of sales particulars and a campaign in the trade press. In November 2008 the asking price was reduced to £590k.
23. A letter from the agents in February 2011 stated that since 2007 the property had been fully exposed to the open market by inclusion on their website and in regular e-mail and mail shots to their database of potential buyers. They also confirmed that the ".....quoted asking price remains £590k freehold".
24. During 4 years of marketing, only three formal offers were received. The first, accepted in October 2007, was for the then asking price of £675k - although the prospective purchaser subsequently pulled out. Following the price reduction in 2008, two further offers were received. One, at £500k, was rejected as being too low as it was insufficient to clear the mortgage on the property but in May 2009 an offer of £570k was accepted – although, again, the prospective purchaser later pulled out.
25. Local residents representing the 'Shepreth Ploughshare' state that it appears as though The Plough was removed from sale in February 2011. The Council also points out that the property was no longer being advertised on Christie & Co's website at the time of its determination and the Appellant confirmed at the hearing that there had been no marketing by Christie & Co in the last year. I understand that this was because the property had been sold to the Appellant 'subject to contract' – the arrangements including an obligation on the Appellant to pursue residential development on the site.
26. Policy SF/1 requires that consideration be given to the results of any efforts to market the premises for a minimum of 12 months at a realistic price. In the Council's view the initial asking price was somewhat ambitious and is likely to have discouraged serious applicants. Whilst the subsequent reduction to £590k was considered a reasonable course of action at the time, the Council nevertheless still considered the asking price to be ambitious – although not so ambitious that it would necessarily discourage interested parties. However, the Council also considers it surprising that no further reductions were made in light of the subsequent economic decline, suggesting that a reasonable expectation of price in 2010 would have been closer to £400k.

27. The Appellant's stance is that the prices sought were realistic given that several formal offers were received. It is also suggested that the basis on which the Council had assessed what it considered a reasonable price expectation was highly dependent on a national average multiple of Fair Maintainable Trade – the Appellant suggesting that regional differences were highly significant and that using the figure for East Anglia would produce a price which would not be far out of line with that being sought.
28. Given that some offers were received for The Plough, it seems that at certain stages of its marketing the asking price was seen by some potential purchasers as being reasonable. However, none of the three offers received proceeded to sale and one was considerably below the then asking price. In my view, the fact that some 4 years of marketing only resulted in two offers close to the asking price must at least raise questions as to whether the property and its asking price were appropriately matched.
29. Indeed, despite a number of viewings since July 2009 no further formal offers were received. Whilst I accept the Appellant's point that the asking price should be reflective of local conditions and that the Council's suggested price of £400k may be too low, bearing in mind the economic climate and the lack of any offers, a further reduction in price between November 2008 and February 2011 might have been expected. The fact that a lower price might not be sufficient to clear the vendor's mortgage commitments may mean that he is unwilling to offer the property for sale at that price - but it does not mean that such lower price is unrealistic in the context of the market.
30. Whilst I am therefore content that the property has been offered to the market for a period well in excess of the minimum 12 months sought by Policy SF/1, I am less convinced that the offer price was realistic throughout that period. In my view the marketing of the property cannot be without some criticism and there is at least limited conflict with Policy SF/1.

#### *Conservation Area*

31. The Plough lies within the Shepreth Conservation Area and the statutory test requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.
32. In physical terms the effect of the proposed development would, through landscaping of the existing frontage, enhance the appearance of the area. In respect of its character, the Council notes that "Arguably however, the loss of a village facility would affect the social character of this part of the Conservation Area and this would be to the detriment of the area".
33. However, as noted earlier it is debateable as to whether a restaurant provides a village facility. The surrounding development is described by the Council as being predominantly residential of a mix of age and form and in these circumstances it is my view that a change of use from a restaurant to a residential dwelling would, in overall terms, have a neutral effect on the character of the area. I therefore find no conflict with the statutory test.

#### **Other matters**

34. In addition to the letters from local residents objecting to the application and the appeal, as well as the accompanying petition, it was made clear at the hearing that there is considerable local opposition to the proposal. Indeed, I

note that a number of local residents have formed a group known as 'Shepreth Ploughshare' with the intention of returning The Plough to community use - specifically as a community-owned public house.

35. However, the 'Shepreth Ploughshare' does not appear to have passed much beyond its formative stages nor does it appear to have sufficient funds in place with which to achieve its objective of purchasing The Plough and turning it into a community-owned public house. In these circumstances I can give little weight to its intentions. Nevertheless, the formation of 'Shepreth Ploughshare' is indicative of a strong local desire for The Plough to once again become a community facility.
36. The NPPF is clear that part of promoting a strong rural economy is the retention and development of local services and community facilities in villages, including public houses. It also states that the planning system can play an important role in facilitating social interaction and creating healthy and inclusive communities.
37. To support this approach the NPPF seeks for planning authorities to involve all sections of the community in planning decisions and amongst other matters, those decisions should aim to achieve places which promote opportunities for meetings between members of the community. It also notes that policies and decisions should plan positively for the provision of community facilities, including public houses. Although, as the Appellant points out, the NPPF is clear that applications for alternative uses of land or buildings should be treated on their merits having regard to market signals, it goes on to state that regard should also be had to the relative need for different land uses to support sustainable local communities.
38. Given its recent publication and extensive consultation I consider the NPPF to be a weighty material consideration.

### **Planning obligation**

39. The Appellant has submitted a planning obligation pursuant to s106 of the Town and Country Planning Act 1990 that is intended to provide contributions towards such matters as community facilities, recycling receptacles and open space. However, the absence of such an obligation did not form part of the Council's reasoning in refusing the application nor has the Council provided the policy basis for seeking any such contributions. In reaching my determination I have therefore found no need for the obligation - but neither have I accorded it any weight.

### **Conclusions**

40. There are a number of matters that I consider weigh in favour of the proposed development. These include firstly that The Plough has not been a pub for some considerable time and that, notwithstanding its more recent use as a bar/restaurant, its conversion would not deprive the village of something that can currently be justly regarded as a community facility. Secondly, despite marketing the premises as a bar/restaurant for a period of some 4 years, the vendor has failed to secure a buyer. Thirdly, the former restaurant business proved unviable and had to be liquidated. The conversion would also result in a small supplement to the housing stock.

41. However, there are also matters weighing against the conversion. Firstly, the physical attributes of The Plough clearly make it suitable for a pub use and the proposed development would therefore result in the loss of a potential community facility – which it is accepted could be viable. Secondly, there are few other services and facilities in the village and the loss of even a potential facility takes on a particular significance. Thirdly, despite the lengthy period of marketing, I have reservations as to whether the asking price was realistic throughout that period and I do not regard the marketing so far carried out as carrying conclusive weight.
42. Based on the factors above I see the determination as being finely balanced. However, it is obvious that a substantial part of the community sees The Plough as a potentially valuable community facility and I am very much aware that approving the proposal is likely to result in the loss of that potential facility forever. I am also conscious of the weighty support offered by the NPPF to the retention and development of community facilities (including public houses) and its support for the involvement of all sections of the community in planning decisions. Taking these further considerations into account leads me to the conclusion that the loss of The Plough as a potential contributor to the social amenity of the village would be unacceptable.
43. Having had regard to all other matters before me I find nothing to add to or alter my finding above. The appeal must therefore fail.

*Lloyd Rodgers*

Inspector

## **APPEARANCES**

### FOR THE APPELLANT:

Mr P Belton	Januarys
Mr R Muttu	MPM Properties (Royston) Ltd
Mr C Day	October Restaurants
Mr T Nichols	Everard Cole

### FOR THE LOCAL PLANNING AUTHORITY:

Mr M Hare	Development Control Officer, South Cambridgeshire District Council
Mr T Wheeler	Fleurets

### INTERESTED PERSONS:

Mr D Kendrick	Councillor, Shepreth Parish Council
Mr C Cook	Parish Clerk
Mr D Elliott	'Shepreth Ploughshare' and local resident
Mr C Porter	Melbourn resident

## **DOCUMENTS SUBMITTED AT THE HEARING**

- 1 Planning Obligation dated 10 April 2012. Submitted by Mr Belton
- 2 South Cambridgeshire District Council Recreation Study (June 2005)  
Submitted by Mr Hare
- 3 South Cambridgeshire District Council Community Facilities Assessment  
(September 2009) Submitted by Mr Hare



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# Appeal Decision

Hearing held on 18 September 2012

Site visit made on 18 September 2012

**by Ian Radcliffe BSC (Hons) MCIEH DMS**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 1 November 2012**

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**Appeal Ref: APP/Q0505/A/12/2174210**

**292 Mill Road, Cambridge CB1 3NL**

- 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 Bennell Developments Limited against the decision of Cambridge City Council.
  - The application Ref 11/0872/FUL, dated 18 July 2011, was refused by notice dated 20 December 2011.
  - The development proposed is residential development - the erection of 5 houses and conversion / extension to provide student accommodation (16 units).
- 

## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues in this appeal are;
  - whether the proposal would result in the loss of a local facility important in sustaining the social life of the community; and if it would, whether such a facility would be viable to operate;
  - the effect of the proposal on the character and appearance of the area; and,
  - the effect of the proposal on local services and facilities.

## Reasons

### *Principle of development and use of the building*

3. The appeal site is occupied by a purpose built Victorian public house called 'The Royal Standard' closed in 2007. Utilising permitted development rights it reopened the same year as a restaurant (use class A3) before last year changing use once more to operate as a charity shop (use class A1).
4. A presumption in favour of sustainable development is at the heart of the government's National Planning Policy Framework (the Framework). The proposed development is located within a residential area close to the centre of Cambridge and would result in the redevelopment of the site for housing. As a result it is not a matter in dispute that it is a sustainable location for development. Policies 3/1 and 5/2 of the Cambridge Local Plan support the conversion of non residential buildings into self contained dwellings in order to make efficient use of land and assist in meeting the housing targets for the city.

5. However, paragraph 70 of the Framework also advises that planning decisions should enhance the sustainability of communities by planning positively for community facilities, such as public houses, and guard against their unnecessary loss. Policy 5/11 of the Cambridge Local Plan, which seeks to prevent the loss of community facilities, fails to identify public houses as such a facility. The Local Plan is therefore in conflict with the Framework. However, as the Framework is an important material consideration and a more recent publication than the Local Plan I attach significant weight to it and I shall treat public houses as a community facility. The question therefore is whether the premises which has not operated as a public house for 5 years is such a facility. It is to that matter which I now turn.
6. In response to the loss of public houses and the silence of the Local Plan on this matter the Council has prepared an Interim Planning Policy Guidance on the Protection of Public Houses in the City of Cambridge (IPPG). Public consultation has closed on this document and subject to minor amendments it is due to be adopted by the Council in October this year. Whilst not part of the development plan it is a practical document which provides a useful approach to assessing applications for a change of use of public houses and I attach moderate weight to it.
7. The IPPG recognises that the use of public houses can be changed to other Class A uses without the need to apply for planning permission. As a consequence, it applies the same development management principles to assess applications for a change of use of such premises to housing as it applies to public houses which are currently in use as drinking establishments. I concur with the findings of another Inspector in appeal reference APP/W0530/A/11/2167619. He found in the absence of such guidance in another local planning authority area that to adopt the approach that a public house use of a site has been lost if it was no longer in use as a drinking establishment would be to take a view that is too narrow and simplistic. For these reasons, I therefore find that the appeal premises is a community facility.
8. The liquor licence for the premises lapsed this year. Whilst planning permission may be readily gained for use as a drinking establishment (class A4 use) the Council's licensing policy has a presumption against issuing new licences on Mill Road. The appellant argues that as a result it is unlikely that the building could re-open as a public house. However, each application would be assessed by the Council on its merits. Given the long history of use of the building as a public house, and that well run public houses do not add to anti-social behaviour or crime, the risk that the premises may not gain a liquor licence is not a matter of such significance as to mean that the building could not reopen as a drinking establishment.

*Value of the facility to the local community*

9. The premises are located in an urban part of the city that is characterised by terraced housing. Redevelopment of nearby sites such as the former school to the west with terraced housing and flats has increased the amount of housing in the area in recent years. As a result of the high density of development there are a comparatively high number of people living in the area.
10. For a facility to be of value to a local community it needs to be within reasonable walking distance. The Cambridge Pub Study commissioned by the Council has used a distance of 400m to assess accessibility. The appellant

believes that a distance of up to 800m would be more suitable measure. In order to cater for the mobility of all sections of the community I believe that a distance closer to 400m is more appropriate. On this basis there are 2 alternative public houses towards the edge of Romsey within a reasonable walking distance of the appeal site. The first, 'The Brook', is a sports orientated public house. The second, 'The Empress', is aimed at young people. As a consequence, both are niche drinking establishments that do not aim to serve the wider local community. The Royal Standard in contrast has gardens and is centrally located in Romsey. As a result, it is within easy walking distance for all residents of this local community and has the potential to cater for a broader market than the other 2 public houses.

11. A petition with 455 signatures was submitted to the hearing seeking the retention of the building and its gardens for use as a public house or another community use. This supports the contention that the Royal Standard is a facility that is valued by the local community. Whilst the loss of the Royal Standard would not reduce the local community's ability to meet its day to day needs I therefore find that it would result in the loss of a facility that is of value to it.

#### *Viability*

12. The Royal Standard was a local facility of service to the community for over 125 years until it ceased trading as a public house 5 years ago. When the public house was trading it was tenanted. The appellant stated that the landlord of the public house was unable to operate the business at a profit. This supports the view that whilst it has been a valued local facility it struggled in the years prior to its closure as a public house.
13. Several local residents stated that the public house was poorly managed in its latter years. Furthermore, landlords of tenanted public houses, unlike freehold landlords, are restricted in terms of the beers that can be sold and have less incentive to invest in a building they do not own. These considerations may well have affected the attractiveness and thus popularity of this community facility.
14. In my assessment, based upon the policies of the Framework, in order to discover whether a change of use of the building is justified it should therefore first be marketed as a public house in accordance with sensible criteria such as those contained within the IPPG. This approach would also be consistent with how applications for changes of use in relation to other local community facilities are dealt with under policy 5/11 of the Local Plan. The proposal would therefore be contrary to the objectives of the Framework and the general thrust of policy 5/11 of the Local Plan.

#### *Character and appearance*

15. The appeal site lies within the Mill Road Area of the Central Conservation area. The Conservation Area Appraisal identifies that Romsey town along the side streets off Mill Road is characterised by narrow 2 storey terraced housing set on the back edge of the pavement. This has resulted in a fine grain of urban development. Buildings of Local Interest, which policy 4/12 of the Local Plan seeks to protect, include the Royal Standard. These buildings are predominantly located along Mill Road the main thoroughfare through the area.
16. The proposed side and rear extensions to the Royal Standard would be subservient in height to the building and would not unduly obscure its

chimneys from public view. In terms of design the inclusion of a gable in the front of the side extension would complement the main elevation of the building. In addition, the pitch of the mansard roofs would match that of the existing building. I recognise that the vast majority of the side garden would be occupied by the side extension, but it is a feature of this urban part of the Conservation Area that the full width of sites, including corner plots, are usually occupied by buildings. The proposal therefore would not adversely affect this Building of Local Interest. The rear garden and car park are present in glimpsed views from Mill Road and do not in my view make an important contribution to the character and appearance of the Conservation Area.

17. The proposed terrace would be set close to the back edge of the pavement on Malta Road and in terms of height, width and architectural features would complement the existing terrace. Conditions requiring the provision of a replacement tree to the side of the Royal Standard, the value of which is identified by the Character Appraisal, and the use of appropriate materials would assist in ensuring that the appearance of the development complements the locality.
18. Taking all these matters into account, I therefore conclude that the proposed development would preserve the contribution of the appeal site to the character and appearance of the Conservation Area. In doing so the proposal would comply with policy ENV/7 of the East of England Plan and policies 3/10, 3/12, 4/11 and 4/12 of the Cambridge Local Plan. These policies require the protection of the character and appearance of a locality, including conservation areas, through high quality design that respects local design features.

### **Other matters**

#### *Local services and facilities*

19. Policy 5/14 of the Local Plan provides the policy basis for contributions towards the provision of open space, community development, waste, waste management and education. The contents of the obligation are uncontested and a properly completed section 106 agreement was submitted to the Council to secure such provision prior to the hearing. However, as the proposed development is unacceptable for other reasons it is not necessary to assess the contributions sought in relation to the tests in paragraph 204 of the Framework, or the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010.

#### *Split decision*

20. Should it be deemed appropriate a split decision was suggested by the appellant allowing the appeal in relation to the proposed terrace, but dismissing it in relation to the conversion of the Royal Standard. Whilst these 2 aspects of the scheme are physically and functionally separate such a decision would result in the communal outdoor area of the Royal Standard wrapping around the side and rear of the back garden of the nearest of the proposed terraced houses. As this would be the sole private amenity space to this house if the Royal Standard once more was used as a community facility this has the potential to result in unacceptable noise and disturbance for future occupiers. Furthermore, a public house with a car park and outdoor amenity space is a far more attractive proposition than a public house without these facilities. In the interests of maximising the opportunity for the facility to return to community

use and safeguarding the living conditions of the occupiers of the end terrace a split decision therefore would not be appropriate in this instance.

**Conclusion**

21. While the site is in a sustainable location and the proposal would make an efficient, well designed use of the site to provide additional housing (including for students), I consider that any presumption in favour of development is clearly outweighed by the comprehensive harm the proposal would cause by virtue of the loss of a valued community facility. For these reasons, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Ian Radcliffe*

Inspector

## **APPEARANCES**

### FOR THE APPELLANT:

Mr Kratz  
BA(Hons) solicitor LARTPI

Birketts LLP

### FOR THE LOCAL PLANNING AUTHORITY:

Mr Evans  
Planning Officer

Cambridge City Council

Mr Waller  
Senior Planning Policy Officer

Cambridge City Council

### INTERESTED PERSONS:

Mr Bell	Cambridge Past, Present & Future
Mr Cook	Cambridge & District Campaign for Real Ale
Mr Boucher	local resident
Mr O'Malley	local resident
Miss Walker	local resident
Miss Jeffery	local resident
Mr Bourke	County Councillor

## **DOCUMENTS SUBMITTED AT THE HEARING**

- 1 Letter of notification detailing the time, date and location of the hearing together with a list of persons notified.
- 2 Petition supporting retention of the public house.
- 3 Cambridge City Council Statement of Licensing Policy.
- 4 Report on the key issues arising from Public Consultation on the IPPG on The Protection of Public Houses in the City of Cambridge, dated 11 September 2012.
- 5 Mill Road Area Conservation Area Appraisal.
- 6 Completed Section 106 agreement.
- 7 Planning Officer report at the Planning Committee on 22 August 2012 on the residential redevelopment of 169 – 173 High Street Application No 12/0705/FUL .
- 8 E-mails from the County Council regarding contributions sought towards education.

## **PLANS SUBMITTED AT THE HEARING**

- A Plan showing the location of local section 106 projects in the vicinity of the appeal site.



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# Appeal Decision

Hearing held on 13 February 2013

Site visit made on the same day

**by Paul Crysell BSc (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 20 March 2013**

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**Appeal Ref: APP/Q0505/A/12/2183797**

**503 Coldhams Lane, Cambridge CB1 3JH**

- 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 Campbell Properties Ltd against the decision of Cambridge City Council.
  - The application Ref 12/0724/FUL, dated 22 May 2012, was refused by notice dated 22 August 2012.
  - The proposal is for the residential development of eight houses and two flats following demolition of the existing public house.
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## Decision

1. I dismiss the appeal.

## Main Issues

2. I consider the main issues are:
  - whether the development is consistent with provisions in the NPPF to prevent the unnecessary loss of facilities and services;
  - the effect of the development on the character and appearance of the area;
  - the effect of the development on the living conditions of neighbouring residents;
  - the effect of the development on highway safety;
  - whether the scheme satisfies policy requirements for the provision of renewable energy;
  - whether the proposal includes provision for contributions to supporting services and infrastructure in accordance with relevant policy provisions.

## Reasons

### *Loss of facilities and services*

3. The public house fronts on to Coldhams Lane, one of the main routes into Cherry Hinton, a settlement on the outskirts of Cambridge. The intention is to replace the existing building with a residential scheme which would wrap around the front of the appeal site at its junction between Coldhams Lane and Rosemary Lane. The properties would be set well forward in order to provide parking and amenity space to the rear.

4. In principle a residential use is acceptable according to the Council, but it says the scheme fails to accord with the National Planning Policy Framework (NPPF). In particular, paragraph 70 refers to the need to guard against the unnecessary loss of facilities which contribute to the sustainability of communities.
5. Policy 5/11 of the Cambridge Local Plan (LP) sets out in more detail how the Council will protect community facilities although public houses do not come within its scope. The number being lost, nevertheless, has become a matter of concern to the Council who commissioned a study to examine the factors contributing to their decline. This led to the production of interim planning guidance<sup>1</sup> (IPPG) setting out the Council's position prior to the introduction of a replacement Local Plan.
6. The IPPG lists a number of sites where public houses should be safeguarded, although the appeal site was not one of those originally identified. I was told it was included prior to the adoption of the IPPG because of the possibility that development might take place in the vicinity of the site although it appears this is now unlikely. In addition, I am unclear why further consultation was not carried out before the IPPG was adopted in view of the late changes made to it.
7. I understand the Council's desire to address this problem but I have serious misgivings about the validity of the IPPG. It introduces policy outside the formal development plan process and is contrary to the Local Planning Regulations<sup>2</sup> which came into effect on 6 April 2012.
8. These prescribe the form and content of local plans and supplementary planning documents (SPD) and are more restrictive than was previously the case. The Council explained the IPPG had not been produced as a SPD although consultation had been carried out, mirroring that process. In any event, the IPPG provides a policy framework which has not been independently tested and, for this reason, I accord it little weight. I also understand it is the subject of a judicial review.
9. The public house is in a peripheral location and adjacent to a number of commercial units which limits its catchment population. Cambridge Past, Present and Future<sup>3</sup> believe it would be possible for it to remain as a community asset but it does not appear to be well placed to meet local needs and permission has been granted to demolish it. I was told there was no business interest in its retention as a public house and that the appellant's attempts to find alternative uses have been unsuccessful.
10. Even so, there is no substantive information to show what measures have been taken to market the site. Since public houses are identified as community facilities in the NPPF, I do not consider it unreasonable to expect supporting evidence to show there is no realistic prospect of using the site for this purpose before alternative uses are contemplated. Without this evidence, I consider the proposal would be contrary to the objectives of the NPPF.

#### *Character and appearance*

11. There is no discernible form or quality to the range of buildings in the area to influence the style of new development. Instead, the appeal site's prominent

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<sup>1</sup> Interim Planning Policy Guidance on the Protection of Public Houses in the City of Cambridge, October 2012

<sup>2</sup> The Town and Country Planning (Local Planning (England) Regulations 2012

<sup>3</sup> A local charity working to maintain the quality of the environment in Cambridge and its surroundings

- location provides an opportunity to introduce a contemporary design, a point of agreement between both main parties and one with which I concur.
12. The proposal would introduce a short run of four houses on either side of a corner unit containing two flats. The buildings would be set well forward and 'wrap' around the road junction reinforcing their presence in the street scene. By replicating the terraced form of properties in Hatherdene Close, the proposal would also provide a visual link to other housing.
  13. The design would be distinctive but I am not convinced the scheme would come together effectively because the corner unit interrupts the continuity provided by the houses. The uneven transition between these elements would, in my opinion, create a jarring, discordant effect given further emphasis by the striking difference in roof styles as well as the variation in roof height of the houses fronting Rosemary Lane.
  14. The Council is concerned that the properties in Coldhams Lane would be too close to the road and those in Rosemary Lane too far in front of the existing building line. Setting back the development by a modest amount would help to offset its dominant form but the Council's preference to provide parking spaces for individual units would introduce a suburban form of development and fail to contribute to any uplift in the architectural quality of the area. Parking provided off Coldhams Lane would also have implications for highway safety in light of traffic flows on this busy road.
  15. The Council has strong reservations about the courtyard at the rear. This has a functional role as a semi-private space and while it might have little aesthetic appeal it is not excessively large and much could be done through the careful use of materials and landscaping to avoid creating a sterile area. Furthermore, each house would have its own rear garden, as would the smaller of the two flats while the larger flat would have a modest balcony facing Coldhams Lane.
  16. The Council says the balcony would not be used because of noise and disturbance from the road while the amenity space for the smaller flat would be compromised by its orientation and the mass of the surrounding building. I do not consider either outcome would be a sound reason for rejecting the development. It is common for flats not to have individual amenity space and it would be feasible, as the appellant suggested, to glaze the balcony and create a garden room.
  17. The Police Architectural Liaison Officer is satisfied the scheme would satisfy 'Secure by Design' criteria. Despite the Council's doubts, particularly the limited scope for natural surveillance, I am not convinced that this or the widths and lengths of the pedestrian passageways, lighting or the general location of refuse bins are sound reasons for dismissing the appeal.
  18. Despite my misgivings about the proximity of the development to the road frontages I consider the layout to be broadly acceptable. However, I find the poor relationship between the houses and flats detracts from the clarity and unity of the design. Consequently, I consider the proposal would adversely affect the character and appearance of the area contrary to the design objectives of policy 3/12 of the LP.

### *Living conditions*

19. A number of residents are concerned about the loss of privacy if the development were to proceed but the Council says the scheme is unlikely to result in overlooking of neighbouring properties. I agree given the orientation and distance between new and existing dwellings. More specifically the Council is concerned that the nearest house in Hatherdene Close (No. 1) would be overshadowed and dominated by the end unit on Coldhams Lane. The rear garden at No. 1 would ensure a modest degree of separation was maintained although some loss of sunlight would be experienced during the early part of each day. This is more likely to be an issue in the winter, as the appellant acknowledges, but I do not consider this would be significant or that the outlook would be dominated by the new dwelling whose unconventional design means it would be lower than a traditional house.
20. There is greater likelihood, in my opinion, for the development to affect the residents of 1 Rosemary Lane because the vehicles would pass along the access road adjacent to one of its bedroom windows. The appellant estimates some 40 vehicles would use the access each day and says it would be comparable to the noise of passing traffic on Rosemary Lane. I do not agree especially as the bungalow would be closer to the access road. However, the intention to install near silent gates at the entrance and a 1.8 to 2m high brick wall between the access and the bungalow would make a significant contribution in reducing noise and disturbance.
21. Having regard to these matters my overall view is that the living conditions of existing and future residents would not be so seriously compromised to warrant refusing the scheme for this reason. I find the development would not detract from the living conditions of nearby residents contrary to the requirements of policy 3/7 of the LP.

### *Highway Safety*

22. The appellant has proposed a turntable should be incorporated into the garage serving the larger flat in order to overcome the Highway Authority's (HA) objection and enable vehicles to enter and leave in a forward gear. To my mind the need for a turntable is indicative of deficiencies in the layout although the Council believes it could still impact on highway safety if the occupants did not use it or it broke down. Such outcomes are not implausible but I do not accept they are valid reasons for refusing the appeal on highway grounds or that the scheme would fail to satisfy the transport objectives of policy 8/2 of the LP.

### *Renewable Energy*

23. The Council says the appellant has failed to comply with the requirements of policies 3/1 and 8/16 of the LP by not completing its Sustainable Development Checklist or demonstrating that a proportion of energy requirements can be provided from on-site renewable energy sources. It seems to me that much of the sustainability checklist refers to matters to which the Council does not object, are issues which could be addressed by planning conditions or are matters before me. It is not a factor which merits the rejection of the scheme.
24. I am more concerned by the absence of a Sustainability Statement. The appellant claimed that renewable energy provision could be the subject of a

condition, as accepted in a recent appeal<sup>4</sup>. In that case the condition followed from the recommendations of a renewable energy report but a similar assessment has not been provided for this development.

25. The intention is to use photovoltaic panels to meet renewable energy requirements but I am unclear how effective these might be given the unusual roof profiles. Despite this the appellant accepts renewable energy is a necessary facet of the development. On balance, I consider a planning condition would be acceptable providing it was clear that full details of the intended provision, including performance parameters, maintenance programmes and other details were provided and agreed with the local planning authority prior to the commencement of the development.

#### *Financial contributions*

26. The appellant has submitted a signed and dated unilateral undertaking under Section 106 of the Town and Country Planning Act 1990 (S106). This provides for a range of contributions to assist in offsetting the additional demands on services and facilities that future occupants could reasonably expect to make. I have considered these against the statutory tests set out in the Community Infrastructure Levy Regulations 2010.
27. The Council's has referred to a number of documents which provide more detail regarding contributions. These include its Planning Obligation Strategy (2010), Public Art SPD, the RECAP Waste Management Design Guide SPD 2012 and the Open Space Standards Guidance for Interpretation and Implementation 2010. I have not provided with copies of these documents but there is sufficient information to show how contributions have been calculated. I am therefore satisfied that contributions towards the provision of open space, sports facilities, children and teenager facilities, waste containers and community facilities are necessary to cater for the needs of future residents.
28. The County Council says there is insufficient capacity to meet demand for life-long learning facilities and contributions are appropriate to support to replacement of the temporary household recycling centre at Milton within whose catchment the appeal site falls. However, I do not consider the administrative costs of monitoring the agreement is an appropriate charge having regard to the statutory tests. The appellant proposes to include public art within the development and this could be secured by condition.
29. I therefore find the proposed contributions would satisfy the requirements of the CIL Regulations and meet the objectives of policies 3/7, 5/14 and 10/1 of the LP for contributions to appropriate facilities reasonably associated with the proposed development.

#### *Other matters*

30. Local residents have identified other concerns in addition to the matters I have discussed above. These include the density of the development, landscaping and boundary treatments as well as construction details. None of these are factors which I find would undermine the proposal or could not be addressed through appropriate conditions. I have also had regard to a number of appeal decisions provided which involve developments similar in nature to the one before but I have determined this case on its own merits.

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<sup>4</sup> Appeal Ref: APP/Q0505/A/12/2181660

*Conclusions*

31. My overall conclusion is that there is an absence of information to show the retention of a community use is no longer necessary. Despite my conclusions in relation to the Council's IPPG, the emphasis in the NPPF on preventing the unnecessary loss of community facilities is a significant factor which must be addressed. I also find that the proposal would fail to provide a suitable design solution for this prominent location. For these reasons and having regard to all other matters, I dismiss the appeal.

*P R Crysell*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Mr P Kratz BA (Hons), Solicitor LMRTPI	Birketts LLP
Mr D Dalrymple Mr J Norman	Lennox Property Management Architectural Adviser

### FOR THE LOCAL PLANNING AUTHORITY:

Mr M Paul Mr B Waller	Urban Design Team, Cambridge City Council Senior Planning Policy Officer, Cambridge City Council
Ms C Linford	Senior Planning Officer Cambridge City Council

### INTERESTED PERSONS:

Ms C Gohler	Cambridge Past, Present and Future
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## **DOCUMENTS**

- 1 Letter of Notification of the Hearing
- 2 Appeal Decision APP/W0530/A/11/2167619
- 3 Appeal Decision APP/Q0505/A/11/2167572
- 4 Appeal Decision APP/Q0505/A/12/2168512
- 5 Appeal Decision APP/Q0505/A/12/2181660
- 6 Land Registry Extract
- 7 Plant list (to accompany landscape plan LD 12 911.2)
- 8 Revised Unilateral Undertaking (Submitted after the close of the hearing)

## **PLANS**

- A Landscape Plan (LD 12 911.2)