

**To: Communities and Partnership Scrutiny Committee**

**Date: 18<sup>th</sup>. June 2012**

**Report of: Law and Governance**

**Title of Report: Councillor Call for Action – Redevelopment of St. Clements Car Park**

## **Summary and Recommendations**

**Purpose of report:** To present the view and allow consideration of the Councillor Call for Action presented by Councillor Dick Wolff (St. Mary's Ward)

**Key decision? No**

**Scrutiny Lead Member: Committee Chair**

**Recommendations**

**To consider the representations made by Councillor Wolff and decide how it wishes to act.**

## **Introduction**

1. Powers in the Local Government and Public Involvement in Health Act 2007 and the Police and Justice Act 2006 allow for councillors to raise issues in support of their constituents. Councillors have the ability to call for a debate or discussion at a committee on a topic of neighbourhood concern and to try to bring about specific solutions to local problems. These are known as "councillor calls for action".
2. Exclusions to these powers for issues relating to planning and licensing have been repealed by the Localism Act leaving all "local government matters" subject to these powers.

## **Issue for Discussion**

3. Attached at **appendix 1** is the issue of concern as raised by Councillor Wolff along with his proposed solution. The subject matter is the sale of the St. Clements Car Park by the City Council and the subsequent planning proposal for redevelopment.

4. The councillor raises 2 key issues he wishes you to consider:
  - The City Council is the landowner and as a public body should give consideration to and balance the social and economic well being of its communities in the management and disposal of its assets. There are economic considerations in the disposal of this land which should be identified and evaluated. Mitigation measures should be suggested for any negative consequences identified.
  - The same economic considerations are material to the planning application to redevelop because of the value of this commercial area to the diversity of the City. The Planning committee needs to understand these issues and the effectiveness of mitigation measures.
5. The solution proposed by Councillor Wolff is that an Economic Impact study is commissioned by the Council and made available at the point of decision making on the planning application.
6. Officers from City Development and Corporate Assets have been asked to comment on these 2 issues. These comments are presented below. The ward councillors have also been asked if they wish to comment.

### **The Role of the Scrutiny Committee**

7. The committee has to hear the representation of Councillor Wolff. After this, as with any issue for scrutiny, the committee should take advice, make reasonable considerations and form their view. The fact of this presentation by Councillor Wolff does not stop any processes underway.
8. The scrutiny committee can:
  - Decide to do nothing.
  - Call for further information or take evidence to inform their view. To be clear the committee cannot instruct officers but can ask to see information the Council has.
  - Form an opinion at the meeting and pass this to officers. This opinion does not have to be acted upon but the committee can require a response.
  - Form an opinion and pass this to the planning committee responsible for the decision. They in turn will decide if this is material to their considerations.

- Report to Council or the City Executive Board should the committee believe there to be a systemic failure. Views do not have to be acted upon but the committee can require a response.

### **Comments from City Development and Corporate Assets**

- 9 As planning authority, the City Council has a duty to preserve the integrity of the planning process. It cannot allow the fact that it is an affected landowner to impact upon that process. It has to remain impartial seeking to assess evidence provided by the applicant or third parties and deal with the application in the normal manner.

Thus it is suggested that if there is “widespread concern about the impact of this (the car park) closure on the economic activity in East Oxford”, as reported by the Councillor, it would normally be for those who have such concerns (and consider themselves to be adversely affected) to present the evidence and, for example, to prepare their own economic impact assessment to support their objection. Those persons would of course be ideally placed to produce such evidence.

The City Council as land owner has sought to address the impact of any adverse planning impacts of the development. It has not “distanced itself from the knock-on effects of its actions”. Indeed it has required the re-provision of car parking in the proposed development.

It has also gone to considerable lengths to secure temporary car parking space during the construction period. Even though it has proved impossible to find a suitable temporary car park site close to the current car park nevertheless it is now proposing to connect the temporary car park to St Clements with a free shuttle bus.

Other measures being considered to support local businesses include:

- a marketing campaign (free local publicity for local traders) during construction to remind customers St Clements is still open for business and how customers can access St Clements by car and public transport and free shuttle bus service.
- Consideration of options during the construction to permit some on site parking by moving the boundary fencing around when no on-site works are taking place (i.e. outside working hours – evenings and weekends).

The City Council as planning authority will determine the application taking account of what has been done and is proposed by the City Council as landowner in the same manner as it would were the landowner (and its actions and proposed actions) any other person.

It would not (were the applicant any other person) commission an economic impact assessment and, were it to do so in this case, would be

treating this planning application differently on account of the identity of the applicant.

Of relevance to this call for action, the planning application is accompanied by a technical transport assessment. That report includes a car park survey which measures the demand for spaces at the current car park, why people are using the car park and related on-street demand outside in St Clements. The user interviews have provided information on duration of stay, purpose of visit and whether this purpose was within St Clements. The interviews carried out in April this year indicate to what extent users are parking in the car park but going beyond St Clements while they park.

It might also be worth explaining that if there were to be an economic impact assessment, the brief would need to ensure that the assessment sought to capture any economic benefits of the proposed development as well as the perceived dis-benefits. Accommodation for 140 students together with a new attractive and modern car park covered by cctv will bring new customer trade and demand for services to local businesses. In addition those involved in the construction itself will bring some extra custom to the local cafés', sandwich bars and pubs.

By way of postscript it may be worth explaining that except in unusual circumstances the impact of a development during its construction is not a material planning consideration. The planning judgement is made on the development as to be built only.

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**List of background papers:**

**Version number:1**

## Appendix 1

### Councillor Call for Action – Councillor Wolff

The Local Government and Public Involvement in Health Act 2007 includes new powers that enable all Councillors to ask for discussions at Overview and Scrutiny Panels on issues where local problems have arisen and other methods of resolution have been exhausted.

This has become known as the 'Councillor Call for Action'. It came into force on 1 April 2009.

Although we have not seen any 'Councillor Calls for Action' in Oxford as yet, I wish to initiate one. Although the action I wish to call for relates to a planning decision, it does so tangentially and therefore I believe it falls within the terms of a 'Call for Action'.

I believe that without the action I am calling for, the Council in its role as a planning authority will not be able to carry out its legal function adequately : whichever way the planning decision in question goes, it may be a poor decision and major local problems may arise.

The planning department will be offering an inadequate service to its councillors and to the general public. The conventional 'method of resolution' -- holding public consultations and meetings -- is not addressing the issue because it is only gathering anecdotal evidence and what is needed is more systematic data.

I believe the primary function of the Council to which a 'Call for Action' is addressed is the Scrutiny function, and I am therefore asking that our Communities & Partnership Scrutiny Committee examine the service which the Planning department is offering to its planning committee and to the general public : certainly with regard to this specific application but also more generally.

Because this is a new procedure in Oxford, I am copying Jeremy Thomas in. Because it relates to planning services I am copying Michael Crofton-Briggs and Cllr Oscar van Nooijen (the chair of the relevant planning committee) in.

The case in question :

The City Council is dealing with an application for a major development of the St Clements car park -- one of only two public car parks serving the whole of East Oxford, an area which will soon shortly be a Controlled Parking Zone in its entirety, but which nonetheless hosts a wide array of independent businesses which give it its distinctive character and provide considerable employment. I am one of the city councillors for St Marys Ward in which many of these businesses are located.

A major sticking point in the process -- possibly the point on which the application will stand or fall -- is the fact that, as proposed, the development will lead to a total loss of all parking on the site during the 11 month period of

construction, and thereafter, a reduction from 112 to 80 parking spaces. (But the key issue is the 11 month closure). Temporary arrangements have been proposed.

There is widespread concern about the impact of this closure on the economic activity in East Oxford, since many of the businesses are already close to the edge owing to the current recession. The worst-case scenario is that East Oxford will permanently lose its distinctive character as a significant number of local businesses fold through loss of business. Considerable and lasting harm will have been done.

On the other hand, there are large sums of money at stake for the Council. If the application fails, the Council is holding a large refundable deposit from the developer that will have to be returned.

If it transpires that the only way forward is for a phased development on the site which will permit some car parking whilst construction is taking place -- and therefore almost certainly a smaller development -- the asking price for the land (owned by the City Council) may have to be renegotiated, and the Council may 'take a hit' that way.

Since it is the Council that is the landowner in this case, I believe the Council itself cannot distance itself from the knock-on effects of its actions in seeking to develop land it owns but has a moral responsibility to measure the impact of its actions on East Oxford, which it has not done, and could.

Despite the potential impacts -- in both directions -- there has been no economic impact assessment of the loss of car parking (or of the proposed alternative arrangements). We do not know who is using the car park, when or why. We do not know how the customers of the different businesses are getting there, and we do not know how many of them are in danger of going elsewhere if there is either no parking at St Clements or at least different arrangements. It is impossible to guess without a proper survey because of the wide variety of the businesses in question. It is standard practice for comments on planning applications to be solicited from the police, water and highways authorities, but I submit that the potential permanent harm that may be done to East Oxford's economy and distinctive character without appropriate remedial measures is probably of even greater significance. If the planning application is approved, the Council will not be in a position to know how to address the difficulties that may result, and if they do arise, will be unlikely to be able to respond quickly enough to save vulnerable businesses.

I have drafted a brief for an economic impact assessment study, which I attach. My call for action is that a study such as this should be commissioned forthwith by the City Council as landowner and planning authority, in the interests of the community of East Oxford and of Oxford as a whole.

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Dick Wolff