

East Area Planning Committee

-7th August 2013

**Application Number:** 13/00811/FUL

**Decision Due by:** 5th June 2013

**Proposal:** Change of use of ground floor from shop (Class A1) into 1x1 bed flat (Class C3). Demolition of rear extension to accommodate garden.

**Site Address:** 30 Cowley Road Littlemore Oxford OX4 4LD

**Ward:** Littlemore

**Agent:** ZAAVIA LTD

**Applicant:** Mr A Ghaffar

**Application Called in –** Called in by Cllr Tanner

Supported by Cllrs Fry, Clarkson and Humberstone, for the following reasons – to examine retail policy and demand in relation to this unit, the practical implications of such a change and the resulting quality of accommodation, and the contribution to housing needs.

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## **Recommendation:**

APPLICATION BE APPROVED

For the following reasons:

- 1 It is considered that, in this case, there are sufficient material considerations to permit the proposed change of use having regard in particular to the length of time that the unit has been vacant, the evidence that has been submitted in support of the change of use, the retention of 50% retail uses in this parade, to the satisfactory internal and external living conditions created in the scheme, and to the potential contribution to meeting housing needs.
- 2 The Council considers that the proposal accords with the policies of the development plan as summarised below. It has taken into consideration all other material matters, including matters raised in response to consultation and publicity. Any material harm that the development would otherwise give rise to can be offset by the conditions imposed.
- 3 Officers have considered carefully all objections to these proposals. Officers have come to the view, for the detailed reasons set out in the officers report, that the objections do not amount, individually or cumulatively, to a reason for refusal and that all the issues that have been raised have been adequately addressed and the relevant bodies consulted.

subject to the following conditions, which have been imposed for the reasons stated:-

- 1 Development begun within time limit
- 2 Develop in accordance with approved plans
- 3 Materials - matching
- 4 Removal of existing canopy
- 5 External amenities prior to occupation
- 6 Parking and manoeuvring space
- 7 Renewable energy source

### **Main Local Plan Policies:**

#### **Oxford Local Plan 2001-2016**

**RC8** - Neighbourhood Shopping Centres

**CP1** - Development Proposals

**CP8** - Design Development to Relate to its Context

#### **Core Strategy**

**CS22**\_ - Level of housing growth

**CS23**\_ - Mix of housing

**CS18**\_ - Urban design, town character, historic environment

#### **Sites and Housing Plan**

**HP2**\_ - Accessible and Adaptable Homes

**HP11**\_ - Low Carbon Homes

**HP12**\_ - Indoor Space

**HP13**\_ - Outdoor Space

**HP14**\_ - Privacy and Daylight

**HP15**\_ - Residential cycle parking

**HP16**\_ - Residential car parking

**HP9**\_ - Design, Character and Context

**MP1** - Model Policy

#### **Other Material Considerations:**

National Planning Policy Framework

#### **Relevant Site History:**

61/00692/M\_H - Outline application for conversion of 2 houses into shops with flats over. PER 6th July 1961.

61/00924/M\_H - Conversion of two houses into 2 shops and 2 flats and erection of 4 garages. PER 6th September 1961.

64/00755/M\_H - Canopy (30-40 Cowley Road, Littlemore).. PER 23rd September 1964.

12/02790/FUL - Change of use of ground floor from shop (Class A1) to 1 x 3-bed flat (Class C3 dwelling).. REF 1st February 2013.

**Representations Received:**

None

**Statutory and Internal Consultees:**

Highways Authority – no objection

Littlemore Parish Council – objects to impact on the street scene,

Thames Water Utilities Limited – no objection in terms of water or sewerage infrastructure with an informative in respect of the latter.

**Issues:**

Loss of a shop unit

Living conditions

Impact on the street scene

Highways and parking

**Sustainability:**

This proposal is sustainable in that it represents re-use of existing developed land. The new dwelling is in a sustainable location being close to shops and local amenities and on a main bus route. Policy HP11 of the SHP requires an energy statement to be submitted and include an element of on-site renewable or low carbon technologies in new development. This can be required by condition.

**Officers Assessment:**

Site and Surroundings

1. 30 Cowley Road, Littlemore is presently the vacant end shop (southern end) in a parade of 6 shops in a row of two-storey Edwardian/Victorian buildings. The shops are on the ground floor with flats/storage in the first floor. A canopy above the shop fronts extends the length of the parade and projects 1.8m out from the face of the building. There is a wide pedestrian forecourt to the parade. At the rear of the parade is a large concrete vehicle access/parking/delivery area with 8 garages.
2. The parade includes a Post Office/confectionary store, a Mini-market, a Hairdresser, a Polish Food mini-market, a Jamaican Takeaway. The application property was last used (for 10 years) by a specialist retailer selling catering equipment. A short distance away, separate from this parade but within the neighbourhood centre, there is also a Fish and Chip shop, Newsagent and a Barber shop.

**Proposal**

3. The shop which is the subject of this application has been vacant for some time and the applicant reports continuing difficulties in letting. The applicant

proposes to change the shop to a 1-bed flat to make beneficial use of the property.

### **Loss of a shop unit**

4. Policy RC8 of the Oxford Local Plan identifies this parade as a Neighbourhood Shopping Centre which performs an important retail function in relation to the surrounding residential areas. Planning permission will only be given for a change of use of a shop unit in such a Centre when there is evidence that the shop use is not viable and that the proportion of Use Class A1 shop units at ground floor level does not fall below 50% of the shop units in the centre. Other commercial or community uses will be considered on their own merits. Changes to residential use need to be supported by substantial proof that commercial uses are not viable. Currently this Neighbourhood Centre has 75% A1 use at ground floor and if this shop unit were to be lost the A1 level would not fall below 50%.
5. Some evidence of lack of viability has been submitted to support the application. The applicant has said that the property has been empty since the end of July 2012 when the previous occupier vacated the shop. The applicant states that the property has been marketed since it became vacant but without success: it was advertised with Christopher Stanley Estate Agents between April and June 2013, and advertised on "Gumtree". The applicant states that 10 parties have viewed the property but none has made an offer citing the location and/or nearby retail competition as their reason. Additionally, the applicant points to the Cowley Centre which is a 10 minute walk away and which provides for a full range of local shopping needs. An estate agent showed some interest but then decided that it was an unsuitable location. The applicant points, as evidence of the lack of economic viability in the area, to a nearby pub which was recently converted to a restaurant at great expense, which was open for 6 months but has been closed for over a year.
6. The applicant has been requested to submit further written evidence to corroborate these statements in order to allow the issue of viability of retail or other commercial uses of the property to be properly and fully addressed in accordance with policy. This more robust evidence has not been submitted and in these circumstances it could be argued that the lack of viability has not been proved sufficiently robustly to justify a change of use to residential in the terms of policy RC8.

### **Living conditions**

7. Setting aside the issue of viability of retail use, consideration needs to be given to the principle and suitability of this property for residential use.

### **Principle**

8. 30 Cowley Road was originally built as a residential unit in the Edwardian era but was converted to retail on the ground floor with a flat above in the early

1960s. The projecting canopy running along the front of this parade was erected under planning reference 64/00755/MH. Policy CS22 of the Core Strategy sets out the housing growth level which is to be achieved in the City. Policy CS23 of the Core Strategy aims to achieve a mixed and balanced supply of new housing development and an efficient use of land. In terms of those policies therefore this proposal can be regarded as a gain to the City's housing stock.

#### Internal and external living conditions

9. Policies HP2, HP9 and HP12 to HP15 of the Sites and Housing Plan deal with the design, sustainability and residential amenities of the proposed new housing. Policy HP12 of the SHP requires that each new dwelling has its own lockable front door, a kitchen and a bathroom; acceptable room sizes to accommodate furnishing and circulation, and storage. No dwelling should be less than 39 sq m. Policy HP2 requires that all new dwellings meet the Lifetime Homes Standard. Policy HP13 of the SHP requires that new (and retained) dwellings have exclusive use of adequately sized and suitably located and oriented garden space, together with refuse storage facilities. Policy HP15 requires that provision be made for secure storage for at least 2 cycles for a one-bedroom property.
10. This proposal meets all those standards: access is via a front door to the street and the flat extends to over 64 sq. m. The rooms are sufficiently large to create a satisfactory internal environment and with level access which meet the Lifetime Homes Standard. The main living area has south facing side windows and patio doors to an enclosed private amenity space. Although the outlook from the windows is towards the garden fence at 28 Cowley Road they will be well-lit rooms. The external amenity space is over 26 sq. m. with a southerly orientation, suitably screened by boundary fencing and with an external access from the side alley. Cycle and bin storage is provided to the required standard. The proposal therefore accords with the Council's policies on internal and external living conditions.

#### Impact on adjoining properties

11. Policy HP14 of the SHP requires that residential properties are not overlooked or overborne by new development and retain adequate daylight and sunlight. This proposal is on the ground floor at the end of a terrace and has no impact on the privacy or other amenities of adjoining or adjacent properties.

#### **Impact on the street scene**

12. The removal of the front shop canopy will to an extent unbalance the visual appearance of the parade of shops but not to the extent that this could form a reason for refusal.
13. The front door and fenestration to the street mean that the proposal retains activity on the street (it does not become a 'dead frontage') while the internal arrangement of rooms means that residential privacy at the street frontage is

secured. It is therefore considered to be acceptable in accordance with adopted design policies CS18 of the Core Strategy, HP9 of the Sites and Housing Plan, and CP1 and CP8 of the Oxford Local Plan.

## **Highways and Parking**

14. In this locality HP16 indicates that parking provision will be judged in its local context taking into account existing parking capacity and safety issues. There is a large garage court at the rear of the property with garages allocated to the shops and flats above.
15. The Highway Authority has commented that the site fronts a busy local road. Parking is not restricted to the front of the parade of local shops and on adjacent residential side roads, where considerable on-street parking was observed. The highway authority considers that these garages are not to the current standards, which limits their use for practical off-street car parking. They have not however raised an objection to the development on highway or safety grounds. In these circumstances a condition is proposed which requires the permanent availability to the new dwelling of a garage or parking space and associated vehicle manoeuvring space in the garage block at the rear of the site.

## **Conclusion**

16. The property has been vacant since the end of July 2012 when the previous tenant moved out. Some marketing has been carried out for retail or estate agent use but without success. The amount and type of marketing has not been as comprehensive or as rigorous as is normally demanded to justify a change of use from neighbourhood shop to residential. Some anecdotal evidence has been submitted concerning local competition and lack of demand for a unit of this type in this location. Were the unit to change to residential use, 50% of the units in this parade would remain in retail use. It is considered that the location of this property at the southern end of the parade enables a residential unit to be created which will add to the stock of housing in the City, provide satisfactory internal and external living conditions, and have an acceptable impact on the street scene.
17. Whilst the absence of a fully robust viability assessment of retail or other commercial uses in this property mean that the proposal may be regarded as not fully meeting the tests of Policy RC8 of the Local Plan, it is clear from the length of vacancy and the marketing that has been undertaken that the property is unattractive to new retail or commercial occupiers. The viability assessment requirements of Policy RC8 have therefore been balanced against other material considerations, principally that 50% of the units in the parade will still be in retail use, and that a new dwelling with satisfactory living conditions can be created which can contribute to the city's housing stock. In these circumstances it is considered that the deficiencies in the viability assessment may, in this case, be outweighed by those material considerations and that the property better lends itself to helping to meet housing need. Accordingly the recommendation is that permission be granted.

## **Human Rights Act 1998**

Officers have considered the Human Rights Act 1998 in reaching a recommendation to grant planning permission, subject to conditions. Officers have considered the potential interference with the rights of the owners/occupiers of surrounding properties under Article 8 and/or Article 1 of the First Protocol of the Act and consider that it is proportionate.

Officers have also considered the interference with the human rights of the applicant under Article 8 and/or Article 1 of the First Protocol caused by imposing conditions. Officers consider that the conditions are necessary to protect the rights and freedoms of others and to control the use of property in accordance with the general interest. The interference is therefore justifiable and proportionate.

## **Section 17 of the Crime and Disorder Act 1998**

Officers have considered, with due regard, the likely effect of the proposal on the need to reduce crime and disorder as part of the determination of this application, in accordance with section 17 of the Crime and Disorder Act 1998. In reaching a recommendation to grant planning permission subject to conditions, officers consider that the proposal will not undermine crime prevention or the promotion of community safety.

**Background Papers:** file ref 13/00811/FUL

**Contact Officer:** Fiona Bartholomew

**Extension:** 2774

**Date:** 25<sup>th</sup> July 2013

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