

## WEST AREA PLANNING COMMITTEE

12<sup>th</sup> November 2014

**Application Number:** 14/02663/FUL

**Decision Due by:** 14th November 2014

**Proposal:** Change of use from Use Class A1 (Retail) to Use Class A3 (Restaurant)

**Site Address:** 96-97 Gloucester Green, **Appendix 1.**

**Ward:** Carfax Ward

**Agent:** Mr Nick Diment

**Applicant:** New River Retail Property Unit Trust No. 3

**Application Called in** – by Councillors – Hollingsworth, Fry, Pressel and Coulter for the following reasons – the application raises significant issues regarding the application of local plan policies in relation to secondary retail frontages in the city centre, and as such is something that needs to be discussed and decided in public by the relevant Planning Committee.

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### **Recommendation:**

APPLICATION BE APPROVED

For the following reasons:

- 1 The proposal would represent an appropriate change of use of the premises within this mixed use area in the City Centre. Whilst objections have been raised, it is considered that conditions can be imposed to ensure that all environmental issues are controlled in accordance with policy RC12 of the Oxford Local Plan 2001-2016 in order to protect the neighbouring residential or commercial properties in this location. Furthermore the loss of a retail (Class A1) unit would not have a detrimental impact upon the retail function of the Secondary Shopping Frontage, as the percentage of retail units within this frontage would remain at the required threshold in accordance with policy RC5 of the Oxford Local Plan 2001-2016. In summary, the proposal would therefore accord with Policies CS1 and CS31 of the Oxford Core Strategy 2026, and Policies CP1, RC5, and RC12 of the adopted Oxford Local Plan 2001-2016.
- 2 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 Opening hours
- 4 Scheme for cooking fumes and odours
- 5 Scheme to protect against noise
- 6 Noise limits on plant
7. Bin storage details

**Main Local Plan Policies:**

Oxford Local Plan 2001-2016

- CP1** - Development Proposals
- CP9** - Creating Successful New Places
- CP10** - Siting Development to Meet Functional Needs
- RC5** - Secondary Shopping Frontage
- RC13** - Shop Fronts
- RC14** - Advertisements
- RC15** - Shutters & Canopies

Core Strategy

- CS1\_** - Hierarchy of centres
- CS18\_** - Urban design, town character, historic environment
- CS31\_** - Retail

West End Area Action Plan

- WE10** - Historic Environment
- WE23** - Retail

**Other Material Considerations:**

- National Planning Policy Framework
- This application is located in the Central Conservation Area.
- Planning Practice Guidance

## Relevant Site History:

- 02/01062/ADV - Internally illuminated fascia signs. PER 8th August 2002.
- 79/00941/A H - Redevelopment to provide public squares linked by arcade, shops, theatre, cinemas, public house (the Gloucester Arms retained), open air amphitheatre, bus/coach station, roof top parking, bicycle park, WCs, & related road improvement - Outline application. REF 5th March 1979.
- 82/00666/L - Land at Gloucester Green - Listed Building Consent for demolition of unlisted buildings in a Conservation Area including former Municipal Restaurant building fronting Worcester Street.. PER 31st January 1983.
- 82/00667/NOH - Outline application for new shops, flats, offices, extension to Arts Centre, bus station and change of use of car park to Public Open Space, including Open Market. Change of use of former Boys Central School to either public house, restaurant, offices or community/social use. Consequential modification of roads and footpaths within application site, including part of Gloucester Street.. PER 18th March 1983.
- 84/00281/NFH - Construct new bus station, market square, offices, flats, shops and cafes, new entrance to George Street Arts Centre, public conveniences, bus station and market traders offices, bus station covered waiting area, underground car park with access to Gloucester Street and City Engineer's facility. New pedestrian and vehicular access and alterations to existing. PER 19th June 1984.
- 84/00282/LH - Land at Gloucester Green - Listed building consent for demolition of unlisted buildings in a Conservation Area including Greyhound P.H., left luggage office and adjoining temporary buildings, cafe, WCs, former Municipal restaurant & kiosk (fronting Gloucester Green). PER 19th June 1984.

## Representations Received:

St Johns Residents Association- raise the following objections which represent the views of residents in the area between George Street and Little Clarendon Street.

- The application breaches Local Plan policy RC12 as it would give rise to unacceptable environmental problems. There is no evidence that this site has the external space for the storage of waste. Extraction would be necessary and would have to be placed on the rear wall under the flats above which would have a serious impact upon the amenity of residents above. Noise disturbance from users of the restaurant leaving late and night.
- It breaches policy RC5 and no adequate justification is provided for such a breach.
- No decisions should be made on such changes until the applicants have provided evidence of their long term intentions for Gloucester Green.

Oxford Civic Society- Comment that the application should be refused for the following reasons:

- It is contrary to City Council policy on the percentage of retail premises in the area. Gloucester Green and its immediate surrounds are already heavily serviced by restaurants and the protection of retail outlets afforded by the policy is essential to prevent the remaining outlets from withering away.
- The application is also contrary to Local Plan Policy RC 12, which is designed to prevent environmental problems, including excessive noise, smell or

undesirable visual impact. Residents of the Square would be adversely affected by a further addition of a food and drink outlet on the ground floor of their building. They will suffer noise and smells for up to 16 hours a day or even more.

- No plans provided so there can be no clarity about the location of waste storage externally. Those facilities could not be at the rear of the premises because the road entrance to the Gloucester Green car park occupies all the space immediately behind these premises.

Ten letters of representation have been received from the occupiers of 1,10, 21, 23, 26 and 42 The Chilterns, 6 Court Farm Barns and the local Ward Councillor raising the following objections and comments:

- Saturation of restaurants and food outlets in Gloucester Green area changing significantly the character of the space.
- Recent closure of restaurants where there are no other alternative retail outlets e.g. prison/castle square.
- No space for waste bins or food storage areas and refrigeration plant.
- Noise and fumes from fans, too close to residential flats.
- Restricted access for deliveries and collections.
- Loss of A1 units
- The character of Gloucester Green would be threatened by a further increase in the number of restaurants and food outlets here. This particular property has access limitations which make it unsuitable for use as a restaurant.
- The resultant late night activity, noise and litter are real concerns for residents whose experiences of such issues increasingly goes beyond the normal expectations of City Centre living.
- 96 & 97 Gloucester Green have a reduced area at the rear of the units for waste disposal which is already a problem at Gloucester Green with multiple "trade waste" bins located in a very visible location by the bus station - not a good first impression for Oxford visitors.
- We trust that the concerns of residents living in close proximity to this proposed change of use will be taken into consideration.

Councillor Ruth Brand- The development would be contrary to Local Plan Policy RC.5 which would take the percentage of A1 units down to 50% which is the very minimum of A1 units our planning policy allows. However, Michael Crofton-Briggs's original response, dated August 8, states that the area would reach 50% A1 units *without* taking into account the former Jessops unit, and that taking this current application and the change of use for the former Jessops unit, will bring the A1 percentage to 49% - below the acceptable threshold. These discrepancies show that the area is so close to the allowed threshold that for all practical reasons it can be considered to have reached that threshold already. Moreover, even if this change in usage will not tip the balance below the acceptable 50%, that would be so only due to the fact that for historical reasons the kiosks on the cinema side of Gloucester Green are not part of that calculation. It is my understanding that there is no practical reason for this exclusion, and therefore in a case such as this, which is so close to the balance, the existence of these units should be taken into account.

The last three eating establishments to have opened in Gloucester Green and its vicinity have all closed within three months. Surely that is a strong indicator that this area has reached saturation in terms of such establishments. With regard to Local Plan Policy RC.12, the location of the shop in question is such that a Class A3 establishment there is bound to have some unacceptable environmental problems. One of the main concerns is the issue of waste disposal, or rather that of waste storage: there is no external space for waste bins. The front area is on the public square, with no area where bins can be kept discreetly, and the back faces the ramp leading to the underground car park, and there is no space there for any commercial-sized bins. Another big concern is the issue of extraction: with flats directly above the shop, it means that the extraction units will have a direct – and adverse – impact on the residents.

#### **Site Description:**

1. The application site is situated in the far corner of Gloucester Green adjacent to the entrance to the bus station. It is currently occupied by Animal Clothing which is classed as an A1 unit.

#### **Proposed Development:**

2. The application proposes the change of use of the existing A1 unit to an A3 unit (Café/restaurant). No other changes are proposed to the unit as it is proposed that these would be dealt with by any future occupier should the application receive planning permission.

#### **Determining Issues:**

- Principle of Change of Use
- Impact upon the amenity of the area.

#### **Officers Assessment:**

3. Policy RC5 of the Oxford Local Plan states that within the secondary shopping frontage, planning permission will only be granted for a) Class A1 (shop) uses, b) other Class A uses only where the proportion of units at ground floor level in A1 use does not fall below 50% of the total units. These percentages are worked out on the basis of the percentage of units within the total Secondary Shopping Frontage that are within each use class.
4. The latest retail shopping frontage survey was undertaken in August 2014 which indicated that within the Secondary Shopping Frontage covered by Policy RC.5, the current figure for A1 uses was 51.52%. Given the figure was so close to the threshold a further re-survey was undertaken prior to determination of this application. This resurvey showed that there has been no change and the percentages are as per the August survey (51.52%).
5. In assessing the development against the requirements of this policy, consideration has been given to the former Jessops unit at 63 George Street

(13/01198/FUL) which is currently being developed. Permission was granted for Change of use of basement and ground floor from a retail unit (Use class A1) to a restaurant (Use class A3).

6. Taking this permission into account, counting the Jessops unit as an A3 this would bring the current percentage down to 50.75% (rounded up to 51%) and subsequently the change of use of the application site at 96-97 Gloucester Green would bring the figure down to exactly 50%.
7. Clearly the proposed change of use would be in accordance with the requirements of this policy therefore no objections are raised in these terms.

#### Environmental Health Matters.

8. Concern has been expressed by local residents regarding the proposed bin storage for the new A3 unit. Whilst no details have been specified in the application (as the new occupier is not yet known), current arrangements for bin storage are at the rear of the unit adjacent to the car park where neighbouring commercial units also store their waste. It is anticipated that any new occupier would have the same arrangements, and a condition will be imposed to require these details to be submitted and agreed.
9. The City Councils Environmental Health Team have not raised any objections to the proposal subject to the imposition of a condition which requires details of an extraction system to remove cooking odours and measures to address noise from associated mechanical plant to be submitted to and approved by the Local Planning Authority. They also suggest that an informative should be added to any decision which requires the applicant to comply with 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust systems'.

#### **Conclusion:**

It is considered that the application is in accordance with the requirements of policy RC5 of the Oxford Local Plan 2001-2016. Whilst concerns have been expressed about the nature of an A3 unit in this location instead of an A1 unit, providing adequate measures can be implemented and secured by planning condition to cover noise, fumes, bin storage etc, it is considered that the development is acceptable and should be approved for the reasons stated.

#### 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 approve the development subject to conditions, officers consider that the proposal will not undermine crime prevention or the promotion of community safety.

**Background Papers:** 14/02663/FUL

**Contact Officer:** Amanda Rendell

**Extension:** 2477

**Date:** 30th October 2014

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