

WEST AREA PLANNING COMMITTEE

9th June 2015

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.

Recommendation: West Area Planning Committee are recommended to refuse the application for the following reasons:

- 1 The proposed change of use from A1 to A3 at 96 and 97 Gloucester Green would presently result in a loss of A1 units within the Secondary shopping frontage of the City and is therefore contrary to policy RC.5 of the Oxford Local Plan 2001-2016.

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 (x 2) , 23 Chalfont Road 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 comprises two units, (96 and 97) situated in the far corner of Gloucester Green adjacent to the entrance to the bus station. It was formerly occupied by Animal Clothing which was classed as an A1 unit and provides approximately 200m² of floorspace.

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 January 2015 . This survey indicated that within the Secondary Shopping Frontage covered by Policy RC.5, the current figure for A1 uses was 50%. Therefore any further loss of existing A1 units would bring the proportion down below 50%.
5. It is worth noting that since 15th April 2015, there is now a prior approval process relating to the change of use of A1 units to A3 units. This is only available to units that don't exceed 150 square metres, and is subject to certain criteria. At present the joint units would not meet this criteria, unless they were split into two.
6. There is also provision in the General Permitted Development Order for temporary changes of use of A1 units of up to 150 square metres to A3 use for a period of up to two years, after which they would have to revert to their lawful use. Again, the application site would exceed the size threshold unless it reverted to two separate units.
7. In summary therefore, it is recommended that the application be refused because the proposal would be contrary to current policy RC.5 of the Oxford Local Plan.

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 these details could be agreed by a planning condition should planning permission be granted.
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:

The January 2015 shopping survey indicated that the existing proportion of A1 units within the Secondary shopping frontage is 50% therefore any further loss of existing A1 units would bring the proportion down below 50% therefore the proposal is contrary to the requirements of policy RC5 of the Oxford Local Plan 2001-2016.

Human Rights Act 1998

Officers have considered the implications of the Human Rights Act 1998 in reaching a recommendation to refuse this application. They consider that the interference with the human rights of the applicant under Article 8/Article 1 of Protocol 1 is justifiable and proportionate for the protection of the rights and freedom of others or the control of his/her property in this way is in accordance with the general interest.

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 refuse this application, 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: 28th May 2015.