

West Area Planning Committee

12th November 2013

Application Number: 13/01777/FUL

Decision Due by: 9th September 2013

Proposal: Change of use of unit 1 from A1 (shop) to A3 (restaurant/cafe)

Site Address: Tyndale House, 134A Cowley Road (**site plan, appendix 1**)

Ward: St Mary's

Agent: Mr Arron Twamley

Applicant: Wilton Place Properties Ltd

Application called in by Councillors Tanner, Smith, Fry and Sinclair on grounds that there is concern about the loss of shops in East Oxford

Recommendation:

The West Area Planning Committee is recommended to approve planning permission for the following reasons:

- 1 The proposed development would form part of the redevelopment strategy of Tyndale House, which seeks to make an efficient use of a previously developed site within the Cowley Road district centre. Although in itself the change of use of the retail (class A1) unit would not comply with part (b) of Oxford Local Plan Policy RC4, the applicant has demonstrated that there are material considerations which would support an exception being made to this policy given the direct relationship of this proposal to enable the hotel development on the upper levels of the building to take place which would add to the vitality and viability of the District Centre. The proposed food and drink outlet would not give rise to any unacceptable environmental and highway impacts as any impacts could be successfully controlled through the imposition of conditions. The development would therefore accord with the aims of the National Planning Policy Framework, and the relevant development plan policies and there are material considerations which justify an exception being made where this is not the case.
- 2 In considering the application, officers have had specific regard to the comments of third parties and statutory bodies in relation to the application. However officers consider that these comments have not raised any material considerations that would warrant refusal of the applications, and any harm identified could be successfully mitigated by appropriately worded conditions.

- 3 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.

Conditions:

- 1 Development begun within time limit
- 2 Develop in accordance with approved plans
- 3 The use to only commence in conjunction within hotel development
- 4 Details of mechanical plant and ventilation
- 5 Details of opening hours
- 6 Construction Traffic Management Plan

Main Local Plan Policies:

Oxford Local Plan 2001-2016

- CP1** - Development Proposals
- CP5** - Mixed-Use Developments
- RC4** - District Shopping Frontage
- RC12** - Food & Drinks Outlets

Core Strategy

- CS1_** - Hierarchy of centres
- CS31_** - Retail

Other Material Considerations:

National Planning Policy Framework

Relevant Site History:

The following applications are relevant to the planning application.

10/00821/FUL: Retrospective change of use of ground floor of 134a Cowley Road from B1 (office) to A1 (retail): Approved

10/02626/FUL: Erection of single storey rear extension: Approved

12/02826/FUL - Three storey extension to rear and extension at roof level. Change of use of first, second and third floors to 66-bed hotel with entrance from James Street. Re-cladding of existing facades and provision of 2 disabled parking spaces, cycle and bin stores and external seating at rear accessed from James Street. (Additional information) (Amended Description): Approved

Public Consultation:

Statutory Consultees

Oxfordshire County Highways Authority: No objection, subject to a condition requesting a construction traffic management plan

Third Parties

Letters have been received from the following addresses, whose comments can be summarised below

- 40 Turner Close; 120 Bullingdon Road; 38 Rectory Road

Comments

- The change of use would not benefit the local diversity of shops.
- Another café/restaurant would only dilute the range of shops available on the Cowley Road where this type of use outweighs the number of retail stores
- There is not enough parking to support this change of use and the adjoining hotel which the change of use would support
- The existing music shop provides a much needed and liked service to the local community and employs several full-time staff
- There is no information about the opening hours

Officers Assessment:

Site Location and Description:

1. The application relates to Tyndale House which is situated at the corner of Cowley Road and James Street. It is within the Cowley Road District Shopping Centre and is approximately 1 mile from the centre of Oxford (**site plan: appendix 1**)
2. Tyndale House is a large and prominent three/four storey office building of typical 1960s utilitarian design. It is constructed of grey engineering brick with strong horizontal bands of rough cast render between each floor. It has a parking and service area to the rear which is accessed from James Street.
3. The ground floor of Tyndale House has two retail (Class A1) units, which are currently occupied by Sainsbury's and Professional Music Technology. The upper levels of the building are accessed from James Street and have recently been granted planning permission for the change of use from B1 to a 66 bedroom hotel (12/02826/FUL).
4. The application site comprises the ground floor retail unit (Unit 1) which is approximately 217m² and has permission to extend to 270 m². The retail unit is currently occupied by Professional Music Technology but they are relocating to new premises as they require more space to meet their business / operational needs.

Proposal

5. The application is seeking planning permission for the change of use of the Retail (Class A1) unit to a café / restaurant (Class A3) use, in order to provide a supporting role for the proposed hotel on the upper floors of Tyndale House.

6. Officers consider that the principle determining issues with regards to the proposal are as follows:
 - Principle of development
 - Change of Use of Retail (Class A1) Unit
 - Environmental Impacts
 - Highway Matters

Principle of Development

7. The National Planning Policy Framework [NPPF] has a general presumption in favour of sustainable development. It recognises there are three dimensions to sustainable development; economic, social, and environmental. The economic role centres around building a strong, responsive, and competitive economy by ensuring that sufficient land of the right type is available in right place to support growth.
8. The NPPF goes on to encourage the effective use of land that has been previously developed. This is supported by Policy CS2 of the Oxford Core Strategy 2026 and Policy CP6 of the Oxford Local Plan 2001-2016 which require new development to be focused on previously developed land, and to make the best use of a sites capacity in a manner compatible with the site and the surrounding area.
9. The general principle of reusing this existing building would broadly accord with the above-mentioned aims of the NPPF, Oxford Core Strategy 2026, and Oxford Local Plan 2001-2016.

Change of Use of Retail (Class A1) Unit

10. The site is located within the Cowley Road District Shopping Centre. The Oxford Core Strategy identifies Secondary District Centres as the third tier of the retail hierarchy, fulfilling a complimentary role to the City centre in providing convenience and specialist goods for the local population with Policy CS31 stating that permission will only be granted for proposals that seek to maintain and enhance the role of the District centre within the retail hierarchy.
11. Policy R4 of the Oxford Local Plan relates specifically to District Shopping Frontages and states that within these frontages, permission will only be granted for:
 - a) Class (A1) shops
 - b) Other Class A uses only where the proportion of units at ground level in A1 use does not fall below 65% of the total ground level of units in the centre; and
 - c) Other uses only where the proportion of units at ground level in Class A use does not fall below 95% of the total ground level units in the centre.
12. The Council undertakes surveys of the District Centre as part of their monitoring function twice a year, usually in January and August. The most recent survey was carried out in August 2013 and indicates that the percentage of retail units (A1) within the centre is at 58.49% which is below the 65% threshold. The

change of use would reduce this further to 56.6% and so would be contrary to part (b) of Policy RC4. The applicant recognises that the proposal is not compliant with Policy RC4, but has put forward material considerations that they consider would justify an exception being made in this case. Therefore these material considerations need to be considered in the determination of this application.

13. The planning statement states that the change of use would form an important part of the hotel development for the upper levels of Tyndale House which was approved in February 2012. The intended occupier is Travelodge who require an affiliated café/restaurant use as part of their 'business hotel model'. The premises will be occupied by Loungers who are a food and drink operator that focus on continental-in-style café and restaurants, and will be available to hotel guests and the general public. The provision of this use on the upper floors of the building were investigated, but would have led to a reduction in the number of rooms that could be provided and the overall viability of the redevelopment. The statement makes clear that the redevelopment of the upper floors will be unlikely to come forward if permission is not obtained for the change of use. The future tenant will be tied to a long lease as it is affiliated to the hotel development which would provide more certainty in the current economic climate, which along with redevelopment of Tyndale House will be of benefit to the district centre. A further material consideration would be that previous alterations to Tyndale House have seen the creation of further retailed space (219m²) as part of the extension to the Sainsbury's store, which would effectively offset the retail space lost through the proposal. Similarly the changes to permitted development rights introduced in 2013 have enabled retail units to change to non-A1 units for a two year period where they relate to a floor space of no more than 150m². At the same time attempts to market the unit for letting since 2012 have generated a poor response despite competitive rent levels being offered.
14. Having reviewed the submitted information, officers consider that the redevelopment of Tyndale House will clearly have some benefits in terms of meeting the key aims of the NPPF to promote economic growth to create jobs and prosperity, and would be a positive measure in terms of adding to the vitality and viability of the District Centre. The policies of the development plan also actively promote hotels on main arterial roads into the city. Therefore it would be disappointing if this scheme did not come forward because permission was not secured for the change of use. The ground floor of Tyndale House essentially comprises two units, with the current proposal seeking to utilise the smaller unit. It is clear that most hotels have some affiliated use such as this, either within their building or in a separate building nearby. The site constraints and extent of work to redevelop the building make it difficult to provide the facility on the upper levels, but in any case it would seem reasonable for the hotel to increase its presence on the ground floor so that guests are attracted to the premises. As a result these material considerations would provide sufficient justification in this instance to support the proposed change of use and make an 'exception' to the requirements of Policy RC4. However in making such an exception it is suggested that a condition be imposed that the proposal should only proceed in conjunction with the permitted hotel.

Environmental Impact

15. Oxford Local Plan Policy RC12 states that permission will only be granted for Class A3-5 (food and drink) uses where they will not give rise to unacceptable environmental problems or nuisance from noise, smell, or visual disturbance, including the impact of any equipment or plant associated with the use. The council will impose planning conditions to control these impacts where necessary.
16. Having regards to the location of the site within a District Centre, it is unlikely that the proposed café/restaurant will give rise to any undue impact in terms of noise or visual disturbance. The application has not included any details of the mechanical extract ventilation which will be required for the kitchen. However, as the proposal will form part of a comprehensive redevelopment of the building as part of the hotel development then it would be possible for any extract equipment to be routed internally or externally. As such Oxford City Council Environmental Health has confirmed that an appropriate ventilation scheme could be secured by condition which protects nearby residents from smell and noise nuisance.
17. The application has not included any details of the opening hours for the facility as they are not known at this stage. It is anticipated that there will need to be some alignment with the hotel use, and so a condition should be attached requiring these details to be submitted and agreed before the unit is occupied.

Highways Matters

18. The site is considered to be a sustainable location given it is within a district centre and is accessible by all forms of transport. The existing retail unit is carried out from the frontage on Cowley Road, where there is a loading bay within the controlled parking zone. The Local Highways Authority have raised no objection to the proposal in terms of highway impacts, but have recommended a condition be attached requiring a construction traffic management plan to be approved before work commences.

Conclusion:

19. The proposal is considered to be acceptable in terms of the relevant policies of the Oxford Core Strategy 2026, and the Oxford Local Plan 2001-2016, and that there are material considerations which would outweigh any potential conflicts with development plan policies therefore the officer's recommendation is to approve the development.

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, officers consider that the proposal will not undermine crime prevention or the promotion of community safety.

Contact Officer: Andrew Murdoch

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Date: 30th October 2013

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