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On Behalf of: Mr Matthew Harris
C/o Riach Architects
Chartered Architect / Planning Consultant
65 Banbury Road
Oxford
OX2 6PE

APPLICATION FOR PLANNING PERMISSION

Town and Country Planning Act 1990

DECISION DATE: 29th August 2008

PROPOSAL: Demolition of frontage buildings of 61/63 Cowley Road. Retention of rear workshop/store and 59 Cowley Road. Erection of 4 storey building (with basement) and conversion of workshop/store and No.59, to provide 2 shop units on ground floor and 5 flats above (2x2, 2x3, 1x1 bed), with private terrace, communal garden and refuse/recycling/cycle parking store (for 13 bicycles).

AT: 59-63 Cowley Road Oxford Oxfordshire

NOTICE OF REFUSAL OF PLANNING PERMISSION

08/01382/FUL

Following consideration of the application in respect of the proposal outlined above it was resolved to **REFUSE PLANNING PERMISSION** for the following reasons:-

REASONS :

- 1 The proposed building due to its design and, in particular, its height and roofing materials, fails to relate to the context of the surrounding area and is out of keeping with the character, appearance and grain of the local urban fabric and is therefore detrimental to the visual amenities of the locality. As such the development is contrary to policy CP8 of the Oxford Local Plan 2001 - 2016.
- 2 The proposed building due to its orientation, design, size and position in close proximity to both the boundary, gardens and the adjacent residential dwellings themselves will unacceptably enclose and have an overbearing impact on the amenity of residents of Alma Place contrary to policy HS.19 of the Oxford Local Plan 2001-2016.

PLEASE NOTE all policies and proposals in the Oxford Local Plan 2001-2016, which are relevant to this decision are specified on the list below which form part of this decision notice. However, in circumstances whereby this notice relates to a refusal of planning permission, the particular policies and proposals in each Local Plan which form the basis for the Council's refusal to grant planning permission are referred to in the reasons for refusal set out above.

Oxford Local Plan 2001-2016:

CP6 CP7 CP8 CP1 CP9 CP10 CP19 HS1 HS2
HS8 HS11 HS19 HS20 HS21 RC2 RC5 TR3 TR4



MICHAEL CROFTON - BRIGGS
Business Manager

IT IS IMPORTANT THAT YOU SHOULD READ THE NOTES ACCOMPANYING THIS NOTICE

**GUIDANCE NOTES FOR APPLICANTS
WHERE AN APPLICATION HAS BEEN REFUSED**

1. PLANNING APPLICATIONS AND APPLICATIONS FOR LISTED BUILDING CONSENT AND CONSERVATION AREA CONSENT.

1. If the applicant is aggrieved by the decision of the Local Planning Authority to refuse permission, he or she may appeal to the Secretary of State for the Environment under Section 78 of the Town and Country Planning Act 1990 (or Section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Regulation 8 of the Planning (Listed Buildings and Conservation Areas) Regulations 1990 in respect of listed buildings in conservation areas), within six months of the date of this notice. (Appeals must be made on a form which is obtainable from the The Planning Inspectorate, Customer Support Unit, Room 3/15 Eagle Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN (Tel. 0117 372 6372) www.planning-inspectorate.gov.uk). The Secretary of State has power to allow a longer period for the giving of notice of appeal but will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears that permission for the proposed development could not have been granted by the Local Planning Authority having regard to the statutory requirements, to the provision of the development order, and to any directions given under the order. The Secretary of State does not in practice refuse to entertain appeals solely because the decision of the Local Planning Authority was based on a direction given by her or him.
2. If permission is refused by the Local Planning Authority or by the Secretary of State for the Environment and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he or she may serve on the Oxford City Council a purchase notice requiring the Council to purchase her or his interest in the land under Section 137 of the Town and Country Planning Act 1990 or Section 32 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Regulation 9 of the Planning (Listed Buildings and Conservation Areas) Regulations 1990 in respect of listed buildings and buildings in conservation areas.
3. In certain circumstances, a claim may be made against the Local Planning Authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to her or him. The circumstances in which such compensation is payable are set out in Section 114 and Part II of Schedule 3 of the Town and Country Planning Act 1990 (or Section 27 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Regulation 9 of the Planning (Listed Buildings and Conservation Areas) Regulations 1990 in respect of listed buildings).

2. APPLICATION FOR CONSENT TO DISPLAY ADVERTISEMENTS

If the applicant is aggrieved by the decision of the Local Planning Authority to refuse consent, he or she may appeal to the Secretary of State for the Environment in accordance with Regulation 17 and Part 3 of Schedule 4 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 within eight weeks of the receipt of this notice. (Appeals must be made of a form which obtainable from The Planning Inspectorate, Customer Support Unit, Room 3/15 Eagle Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN (Tel. 0117 372 6372) www.planning-inspectorate.gov.uk).



Appeal Decision

Site visit made on 22 January 2009

by **Adrian I'Anson** Solicitor

an Inspector appointed by the Secretary of State
for Communities and Local Government

The Planning Inspectorate
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Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

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Decision date:
17 February 2009

Appeal Ref: APP/G3110/A/08/2089022 59 - 63 Cowley Road, Oxford OX4 1HR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Matthew Harris against the decision of Oxford City Council.
- The application ref 08/01382/FUL, dated 27 June 2008, was refused by notice dated 29 August 2008.
- The development proposed is demolition of frontage buildings 59 - 63 Cowley Road. Retention of rear workshop/store. Erection of 4 storey building (with basement) including reinstatement of key features of no. 59 to provide 2 retail units to ground floor and 5 flats above (2 x 2 bed, 2 x 3 bed, 1 x 1 bed), with private terraces, communal courtyard and refuse/recycling store plus cycle parking for 13 bicycles.

Decision

1. I allow the appeal, and grant planning permission for demolition of frontage buildings 59 - 63 Cowley Road. Retention of rear workshop/store. Erection of 4 storey building (with basement) including reinstatement of key features of no. 59 to provide 2 retail units to ground floor and 5 flats above (2 x 2 bed, 2 x 3 bed, 1 x 1 bed), with private terraces, communal courtyard and refuse/recycling store plus cycle parking for 13 bicycles at 59 - 63 Cowley Road, Oxford OX4 1HR in accordance with the terms of the application, ref 08/01382/FUL, dated 27 June 2008, and the plans submitted with it, subject to the conditions set out in the Schedule below.

Main Issues

2. These are the effect of the proposed development on
 - (a) the character and appearance of the locality and
 - (b) the living conditions of residents of Alma Place.

Reasons

3. The appeal site fronts a section of Cowley Road between Alma Place and its junction with Iffley Road. This section is a lively mix of residential and retail uses. The styles and ages of the buildings vary considerably with their heights mostly two and three storey with occasional four storey buildings. The buildings are constructed mainly of brick although there are examples of stone and render.

Character and appearance

4. The appeal site comprises the properties numbered 59 to 63. The front elevation of number 59 is pleasing and matches that of number 57 to the west. On the other hand, the elevation of numbers 61 to 63 with its row of ten small windows appears somewhat squat, utilitarian and out of character with its surroundings.
5. The design of the proposed elevation forms a link between the simplicity of number 57 and the more varied elevation of the gabled first storey above the shop front at number 65. The proposed ridge line at number 59 follows that at number 57. The ground floor shop façade at number 59 is extended across the ground floor frontage of the new build. These features serve to relate the proposed development to its setting. The proposed materials of brick, glazed brick and render match materials used in the locality. On the other hand, the proposed copper clad upper level (with Tecu® Oxid finish) at a higher level than the adjoining buildings could be deemed controversial and out of place. However, its maximum height aligns with that of the ridge height of the prominent building on the corner of Cowley Road and Tyndale Road. Viewed from Cowley Road, the effect of this copper clad feature will be mitigated by a set back from the lower level. In any event, I consider that it will be a feature of interest which will sit comfortably within the diverse grain of its surroundings.
6. I conclude that the proposed development accords with policy CP8 of the Oxford Local Plan 2001 – 2016 (“the Local Plan”) in that the proposed development will relate well to its setting.

Living conditions

7. I appreciate and understand the concern of the Council that the roofline of the proposed development would have the effect of enclosing and having an overbearing impact on the rear gardens of Alma Place and I have noted the comments of the residents of 1 and 2 Alma Place. I viewed their rear gardens from the appeal site and the appeal site from the rear first and second floor bedrooms and garden of 2 Alma Place. The second floor rear bedroom is lit by a skylight flush with the roof and views can be taken only by opening the window, standing and looking through the roof space. Views from there to the south are limited. Views from the first floor bedroom are blocked to the south by an off-shoot from the house. The rear garden is affected by the existing store building at the rear of 59 Cowley Road. This structure will remain and form part of the development. Sun Path Diagrams produced by the appellants indicate that this store building already overshadows areas to the north, including the gardens of 1 and 2 Alma Place and 26 Tyndale Road – to a significant extent.
8. The garden to the rear of 1 Alma Place shares a boundary wall with the appeal site. The proposal removes the existing building element from the boundary and reduces the height of the wall to the same as that between the appeal site and 65 Cowley Road. This reduced wall height will, I consider, improve the amenities of the occupiers of 1 Alma Place in respect of use of their rear garden.

9. The store building will shield most of the roof of the new infill building which is mainly set back behind it. Although open views to the south from 1 and 2 Alma Place (and hence light) will be blocked to an extent, my assessment, given the continued existence of the store house, is that the harm will not be unacceptable. It is clear also from the plans that there will be no unacceptable overlooking from the rear of the proposed development.
10. From the rear garden of 26 Tyndale Road, I considered the effect of the proposed development. The store building forms the southern boundary of this garden. Deletion of the ground floor windows and upgrade of the upper windows with opaque glass, which I have secured with condition 6, will eliminate overlooking into the rear garden of 26 Tyndale Road and thus improve the level of amenity of occupiers of that property.
11. The cladding in copper of the rear of the sloping roof is an element that I have taken into account when considering the effect on the living conditions of the occupiers of the properties referred to above. The appellants contend that the type of copper proposed – TECU® Oxid – will be subject to a natural oxidisation process and become a uniform dark brown colour. I consider that such a finish will not have any adverse effect on those viewing it from the north and may, in fact, provide a pleasing contrast to the red brick that will otherwise predominate.
12. Policy HS19 of the Local Plan requires the Council to assess proposals in terms of matters including a sense of enclosure and development of an overbearing nature. Due to the continued existence of the store building, I consider that any adverse effect in terms of a sense of enclosure and of an overbearing nature created by the new build infill will not significantly harm the occupiers of the properties to which I have referred. Accordingly, the proposal accords with policy HS19.
13. The conditions proposed by the Council comply with circular 11/95. Conditions 2, 4 and 5 are required in the interests of visual amenity. Condition 3 is incorporated to promote the use of cycles thereby reducing congestion on adjacent roads and to ensure that cycles and bins are stored on-site. Condition 6 is needed to safeguard the living conditions of future occupiers of the development and adjoining occupiers. Condition 7 is required to ensure that the development does not generate a level of on-street parking which would be prejudicial to highway safety or cause parking stress in the immediate vicinity.
14. For the reasons given above I conclude that the appeal should be allowed.

Schedule of conditions

- 1) The development hereby permitted shall begin before the expiration of three years from the date of this decision.
- 2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority (LPA). Development shall be carried out in accordance with the approved details.

- 3) The development hereby approved shall not be occupied until the areas for the storage of bins and bicycles have been constructed in strict accordance with the approved plans and thereafter the areas shall be retained solely for the purpose of cycle parking and storage of bins.
- 4) A landscape plan shall be submitted to and approved in writing by the LPA before development starts. The plans shall include a survey of existing trees showing sizes and species, and indicate which (if any) it is requested should be removed and shall show in detail all proposed tree and shrub planting treatment of paved areas and areas to be grassed or finished in a similar manner.
- 5) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the LPA. All planting which fails to be established within three years shall be replaced.
- 6) A plan showing details of privacy screens and windows comprising opaque glass shall be submitted to, and approved in writing by the LPA and completed in accordance with the approved plans prior to occupation of any of the units comprised within the development. Such glazing shall be retained thereafter.
- 7) Before any part of the development is occupied arrangements shall be agreed in writing with the LPA and be put in place to ensure that, with the exceptions of disabled persons, no resident of the development shall obtain a resident's parking permit within any controlled parking zone which may be in force at Alma Place at any time.

A F I'Anson

INSPECTOR

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