

East Area Planning Committee

3<sup>rd</sup> August 2011

**Application Number:** 11/00765/FUL

**Decision Due by:** 12th May 2011

**Proposal:** Demolition of existing building. Erection of 2x2 storey building accommodating 19 student study rooms plus warden's accommodation. Provision of cycle and bin storage.

**Site Address:** 162-164 Hollow Way Oxford Oxfordshire OX4 2NL

**Ward:** Lye Valley Ward

**Agent:** Asset Max Ltd

**Applicant:** Speedy Property Solutions

**Application Called in –** by Councillors – Timbs, Clarkson, Van Nooijan and Humberstone for the following reasons – overdevelopment, parking nightmare, dangerous location, not correct site for student accommodation

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## Recommendation:

Committee is recommended to support the proposal but defer the application in order to allow completion of a Unilateral Undertaking and to delegate to Officers the issuing of the notice of permission subject to conditions upon its completion.

## Reasons for approval:

- 1 Officers conclude that the proposal accords with all the relevant policies within the Oxford Core Strategy 2026 and the Oxford Local Plan 2001-2016 and therefore recommend approval as the loss of the retail unit has been justified and it will not reduce the present mix of uses within the Hollow Way Neighbourhood Shopping Centre below the requirement to retain at least 50% of the units within a retail (Use Class A1) use. The speculative student accommodation can be controlled in terms of full-time student occupancy and cars along with appropriate management controls. The buildings are considered to form an appropriate visual relationship with their surroundings and do not impact on the immediate neighbours in a significant way.
- 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.

- 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.

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 Samples
- 4 Boundary details before commencement
- 5 Bikes and bins
- 6 Contaminated Land
- 7 Fire Hydrants
- 8 Window restrictors / obscure glazing
- 9 No cars
- 10 Day to day management
- 11 Full time students
- 12 Student accommodation only

#### **Legal Agreement:**

Financial contributions are sought as follows:

#### Oxfordshire County Council

Cycle safety measures: £138.00 per student bed space  
Library contributions: £63.00 per student and £118.00 per wardens flat

**Total: £3937.00**

Admin Fee: £100.00

#### Oxford City Council

Indoor sport: £60.00 per student and £125.00 per wardens flat

**Total: £1265.00**

Admin Fee: £100.00

Should planning permission be granted, it has been agreed to complete two separate Unilateral Undertakings for the payment of the contributions.

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

#### **Oxford Local Plan 2001-2016 (OLP)**

**CP1** - Development Proposals  
**CP6** - Efficient Use of Land & Density  
**CP8** - Design Developmt to Relate to its Context  
**CP9** - Creating Successful New Places  
**CP10** - Siting Developmnt to Meet Functionl Needs  
**CP11** - Landscape Design  
**CP13** - Accessibility  
**CP21** - Noise  
**TR3** - Car Parking Standards  
**TR4** - Pedestrian & Cycle Facilities  
**HS19** - Privacy & Amenity  
**HS20** - Local Residential Environment  
**RC8** - Neighbourhood Shopping Centres

### **Oxford Core Strategy (OCS)**

**CS1\_** - Hierarchy of centres  
**CS2\_** - Previously developed and greenfield land  
**CS12\_** - Biodiversity  
**CS17\_** - Infrastructure and developer contributns  
**CS18\_** - Urb design, town character, historic env  
**CS19\_** - Community safety  
**CS25\_** - Student accommodation  
**CS28\_** - Employment sites  
**CS29\_** - The universities

### **Other Material Considerations:**

PPS1 Delivering Sustainable Development  
PPS9 Biodiversity and Geological Conservation  
Planning Obligations Supplementary Planning Document  
Circular 11/95 Use of Conditions in Planning Permission

### **Relevant Site History:**

57/05753/A\_H - Extension to form warehouse and alterations to shop. PER 22nd January 1957.

57/05886/A\_H - Alterations to form bathroom and addition of fuel store. PER 12th March 1957.

72/03115/P\_H - Erection of illuminated fascia sign. PER 21st June 1972.

72/26036/A\_H - Change of use from shop to launderette and installation of new shop front. PER 21st June 1972.

80/00825/NF - New shop front. PER 17th October 1980.

81/00836/NF - First floor extension. REF 9th February 1982.

82/00209/NF - 1. Change of use of ground floor of No. 166 to offices (with retention of 1-bed flat on first floor). 2. Formation of staff car park and loading area at rear of No. 166. 3. Change of use of offices to stores in Nos. 162/164. REF 25th May 1982.

83/00584/S - Section 53 Determination as to whether use as business for hire/sale of small plant and power tools, with retail outlet, ancillary storage and residential house for manager, constitutes a material change of use (Nos. 162/164 and 166 Hollow Way). WDN 3rd August 1983.

83/00763/S - Section 53 Determination as to whether use of premises for tool hire and sales on the retail sales by Oxford Heating Limited is lawful. PNR 5th October 1983.

09/02129/FUL - Demolition of existing building. Erection of 2x3 bed houses over two storeys fronting Hollow Way. Erection of a two storey building to east of site fronting Horspath Road to provide 1x3 bed house, 3x2 and 2x1 bed flats. Provision of 7 car parking spaces, bin and cycle storage. WDN 17th December 2009.

#### **Representations Received:**

9 Fairfax Road, 216 Hollow Way, 166 Hollow Way, 158 Hollow Way, 9 Horspath Road, 169 Hollow Way, 160 Hollow Way, 1 Horspath Road.

#### **Summary of Comments:**

Overdevelopment  
Loss of employment unit  
Too many wardens controlled blocks in the Horspath Road area  
No car parking provision  
Increased noise  
Block 1 encroaches on legally agreed right of access  
Impact on garden  
Ridgeline of block 2 higher than those at 160 and 166 Hollow Way  
No control over obscure glazing  
No details of boundary to south east of 116 Hollow Way  
Bins too close to residential property with smell likely to be an issue.  
Unclear how the brick wall supporting sheds are to be retained as the remainder of the buildings are to be demolished.  
Access to third party land will be required in order to build.  
Cracks in adjacent buildings likely to occur as a result of the development.  
Too many Oxford Brookes accommodation in the area  
No Objections subject to no increase in noise levels and no impact on traffic.

#### **Statutory and Internal Consultees:**

Natural England: see below.

Highway Authority: no objections

Thames Valley Police: no objections

Thames Water: no objections

**Issues:**

Principle  
Planning Obligations  
Design/Residential Amenity  
Highway Issues  
Cycle Parking  
Protected Species/SSSI  
Other Issues

**Officers Assessment:**

**Site Description**

1. The application site is currently occupied by a disused single storey retail unit, most recently used as a plant and tool hire company. The retail unit has a large glassed frontage onto Hollow Way and is situated between two detached residential properties to the north and south. Delivery and vehicular access into the building is from Horspath Road via a roller door as well as providing off-street parking. Access to the neighbouring property 166 Hollow Way is taken from an open area to the frontage along Hollow Way. To the east the site backs onto Horspath Road recreation ground. The character of the immediate surrounding area comprises mainly Victorian and post war residential properties. The existing building is mainly brick with metal and glass skylights.

**Proposal**

2. The application proposes the demolition of the existing retail unit and erection of 19 student rooms and wardens flat within two separate blocks.

**Assessment**

**Principle/Loss of Employment use**

3. It would appear that the last use of the site was as a Tool Hire Shop/Plant Hire depot which would be classed as an A1 use and *sui generis* (of its own class) use respectively, given the low levels of employment generated at the site, it is not considered that the site would strictly qualify as an 'employment-generating use'.
4. Therefore in policy terms the proposal would now be considered on the basis of the loss of a shop rather than an employment generating use, which in this case has been classed as being within the Hollow Way Neighbourhood Shopping Centre. The proposal therefore falls to be considered in relation to Policy RC8 of the OLP which states that planning permission will only be granted for the loss of a class A1 use in Neighbourhood Shopping Centres when

- a) evidence of a lack of viability is demonstrated to support a change of use;
  - b) the proportion of units at ground floor level in A1 retail use does not fall below 50% of the total units in the neighbourhood shopping centres;
  - c) non-residential uses such as other commercial or community uses will be considered on their individual merits and their added value in providing additional local facilities; and
  - d) changes of use to residential use are supported with substantial proof that commercial or community uses are not viable.
5. In terms of the present mix of uses within this collection of premises, the balance comprises 57.14% Class A1 retail, and if this unit were lost the percentage would not fall below the requirement to retain at least 50%.
  6. The evidence on lack of viability relates principally to a marketing exercise, which the application shows was for a limited period from March to April 09. The supporting information suggested that there was little interest, albeit only for a limited period. The additional evidence relates to the age of the property, its condition and location. Given the size of the premises involved it is much larger than a standard retail property that would normally cater for local neighbourhood requirements. In these circumstances it is not considered that there are any grounds to resist the loss of the retail use on this specific site. Similarly no objection would be raised to the loss of the existing building which has no merit and does not provide any positive contribution to the streetscape.
  7. In terms of the principle of providing purpose built student accommodation on the site, in his report on the examination into the Oxford Core Strategy the Inspector found the policy (student accommodation) restricted the provision of student accommodation to that related to the Universities, effectively placing an embargo on student accommodation to serve the needs of the many non-university colleges in Oxford.
  8. The City Council pointed to the greater emphasis of these other colleges on part-time courses and that a lot of their students take up lodging accommodation, so not adding to the pressures on the city's housing stock and limited development sites. Nevertheless, the Inspector put forward that some of the students at these other colleges will be full-time and are just as likely to require housing out in the community and put pressure on the housing market. Where full-time students are on courses of upwards of an academic year, the Inspector concluded that they are as likely as University students to be seeking their own housing as opposed to lodgings.
  9. Whilst removing the policy embargo would increase the competition for any available sites, provided any new accommodation was directed to full-time students, then the impact on the overall housing market would be very limited. These colleges also make their contribution to the local economy. He (the Inspector) found little reason, in terms of housing pressures, to discriminate against non-University colleges. It is not justified in equity terms and therefore the policy wording was changed to reflect this.

10. The policy (CS25) now states student accommodation will be restricted in occupation to students in full-time education on courses of an academic year or more. Appropriate management controls will be secured, including an undertaking that students do not bring cars to Oxford. These can be dealt with via conditions.
11. Therefore, in policy terms, the proposed loss of A1/ *sui generis* uses and provision of speculative student accommodation would be considered acceptable.

### **Design/Residential Amenity**

12. The existing buildings on site are single storey with the elevation fronting Hollow Way giving the impression of being one and a half storey. The existing buildings are up to and on the boundary with the side elevation and garden of 160 Hollow Way and the side and rear garden boundaries of 166 Hollow Way. The existing building is set back from the footpath on Hollow Way by 5.4m and between 4m and 6m from the footpath along Horspath Road. The existing footprint covers an area of 414m<sup>2</sup>.
13. The proposal shows two separate blocks. Block 1 fronts Hollow Way and houses the warden in a self contained one-bedroom flat with its own small area of private amenity space along with three post-graduate student en-suite bedrooms sharing a kitchen/living room. Block 2 fronts Horspath Road and houses the remaining 16 student bedrooms over two floors (8 per floor) with a shared kitchen/diner on each floor. Block 1 footprint covers an area of 64.45m<sup>2</sup> and block 2 an area of 230.31m<sup>2</sup>.
14. The two storey building fronting Hollow Way (block 1) is detached and gives the appearance of an additional dwelling within the street scene. Numbers 160 and 166 are individual properties each with their own style, one slightly older with timber sash windows and one more modern with feature bay windows at ground floor level. Number 158 Hollow Way is part of a row of terraced properties all of similar design and appearance. The proposed building sits somewhere in the middle taking its window design from the first floor at 160 and has chimneys as do all the other properties within the vicinity. Block 1 is set slightly forward (0.8m) than the existing building. However it has been set away from the boundary with 160 Hollow Way by 1m but remains along the boundary with 166 Hollow Way but considerably reduced in length.
15. The existing building has a maximum height of 4.6m and the block 1 has a proposed height of 4.9m to the eaves and 6.7m to the ridge. It forms a rendered blank elevation with a part gable roof and part pitched. There are no windows in the side elevation of 166 Hollow Way therefore there will be no issues of loss of sunlight/daylight to habitable rooms or overlooking/loss of privacy. It is acknowledged that this elevation is higher than the existing building, however, the proposed building is nearly identical to its neighbours in terms of its height, bulk mass and design and there is considered to sit comfortably within and make a positive contribution to the streetscene. Although the proposed building will be taller adjacent to the boundary with 166

Hollow Way, this is considered to be duly compensated by block 2 being set away from the rear boundary, unlike the existing building. Therefore Officers consider overall the impact will be minimal on 166 Hollow Way.

16. Block 2 is seen within the context of Horspath Road as this is where it has its frontage. It is a larger building with a rectangular footprint. The front elevation has been broken up with two square gables and the rear at first floor with angled windows to prevent any overlooking. Both add interest to the front and rear elevations. The front elevation has been brought forward compared to the existing building and is now more in line with the side elevation of 166 Hollow Way and this design approach is considered to better compliment the streetscene. Block 2 does not breach the Council's daylight and sunlight guidance set out in Appendix 6 of the Oxford Local Plan 2001 -2016 in terms of the 45 degree line in the horizontal plane and 25 degree line in the vertical plane when taken from habitable room windows in the rear elevation of 166 Hollow way therefore it is considered to be acceptable in terms of policy HS19 and sunlight/daylight standards.
17. The proposal is considered to form an appropriate relationship and respect the character and appearance of the property and the area and is a visual improvement compared to the existing buildings. Overall it will not have a significant detrimental impact on the neighbouring properties.

### **Highway Issues**

18. Policy CS25 of the OCS states appropriate management controls will be secured, including an undertaking that students do not bring cars to Oxford. This can be dealt with via a condition. The accommodation shall only be let on tenancies which include a clause to prevent the students bringing or keeping motor vehicles in the city. The Highway Authority has raised no objections in terms of highway safety etc and requests a condition requiring the proposal to be car free.
19. It terms of additional parking or congestion within the area, it is considered unreasonable to put in place controls to prevent visitors, tradesmen, deliveries, vans and taxis coming to the site as it would not meet all of the six criteria as laid out in Circular 11/95 (Use of Conditions in Planning Permission) which requires conditions to be necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects.

### **Cycle Parking**

20. Policy TR4 of the OLP states that planning permission will only be granted for development that provides good access and facilities for pedestrians and for cyclists and complies with the minimum cycle parking standards shown in Appendix 4. For student accommodation 1 space per 2 residential students plus 1 space per resident staff is required. Therefore this application should provide 10.5 spaces. 22 cycle parking spaces are shown split into two separate locations within the site. Therefore there is more than adequate



cycle parking provision provided.

### **Protected Species/Site of Special Scientific Interest (SSSI)**

21. The application site lies within 2km of the Lye Valley Site of Special Scientific Interest (SSSI). Natural England has considered the proposal and potential environmental impacts resulting from it upon the SSSI and concludes that the application is unlikely to have any implications for the SSSI.
22. However Natural England advises the proposals as presented may have the potential to affect species protected under European or UK legislation. In particular their concerns relate to the demolition of the current building and bats.
23. As a result of these comments Officers visited the property and observed the building from the parking areas and the neighbouring park. They conclude that there is unlikely to be a bat roost in the building. This is because there are very few gaps into the roof space, the building is currently in use, with security lighting on the walls of the buildings and it is in an urban setting. There are few mature trees near to the building. This is to be balanced against the fact the building is sited between the Oxford Golf course and Lye Valley area, and Shotover Hill SSSI, and a nearby record of a bat roost.
24. On balance Officers can conclude that it is unlikely that an offence under the Habitats Directive will occur.

### **Other Issues**

25. Representations have been received from the owner of number 160 Hollow Way who is concerned about their rights of access over land to the frontage of the Hollow Way part of the site. Third party land and associated issues are not matters for the planning system and are legal matters to be dealt with by the relevant parties.
26. Control over obscure glazing will be dealt with via a condition
27. Details of remaining boundary treatments will be requested and controlled via a condition.
28. Extra noise has been raised as a concern. Details of the day to day management of the accommodation will be requested and a warden will be present on site. There is also other legislation to deal with excessive noise. Officers consider these measures appropriate.
29. The location of the bins has been raised in terms of smells. A requirement is to have the bins in a screened area (policy CP10 of the OLP). This proposal shows them in a covered area with doors on, although no details have been provided. Officers will request such details via a condition and this will ensure the bins remain covered and secure to prevent any smells escaping.

30. Various concerns have been raised by the neighbouring properties over the impact of the build on them and their properties in terms of walls, access, making good party walls etc. These issues are not planning issue and needs to be considered under other legislation and/or through discussions with the developer/builder.

**Conclusion:**

31. For the reasons given above and taking into account all other matters raised Officers conclude that the proposal accords with all the relevant policies within the Oxford Core Strategy 2026 and the Oxford Local Plan 2001-2016 and therefore recommend approval as the loss of the retail unit has been justified and it will not reduce the present mix of uses within the Hollow Way Neighbourhood Shopping Centre below the requirement to retain at least 50% of the units within a retail (Use Class A1) use. The speculative student accommodation can be controlled in terms of full-time student occupancy and cars along with appropriate management controls. The buildings are considered to form an appropriate visual relationship with their surroundings and do not impact on the immediate neighbours in a significant way.

**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.

**Background Papers:**

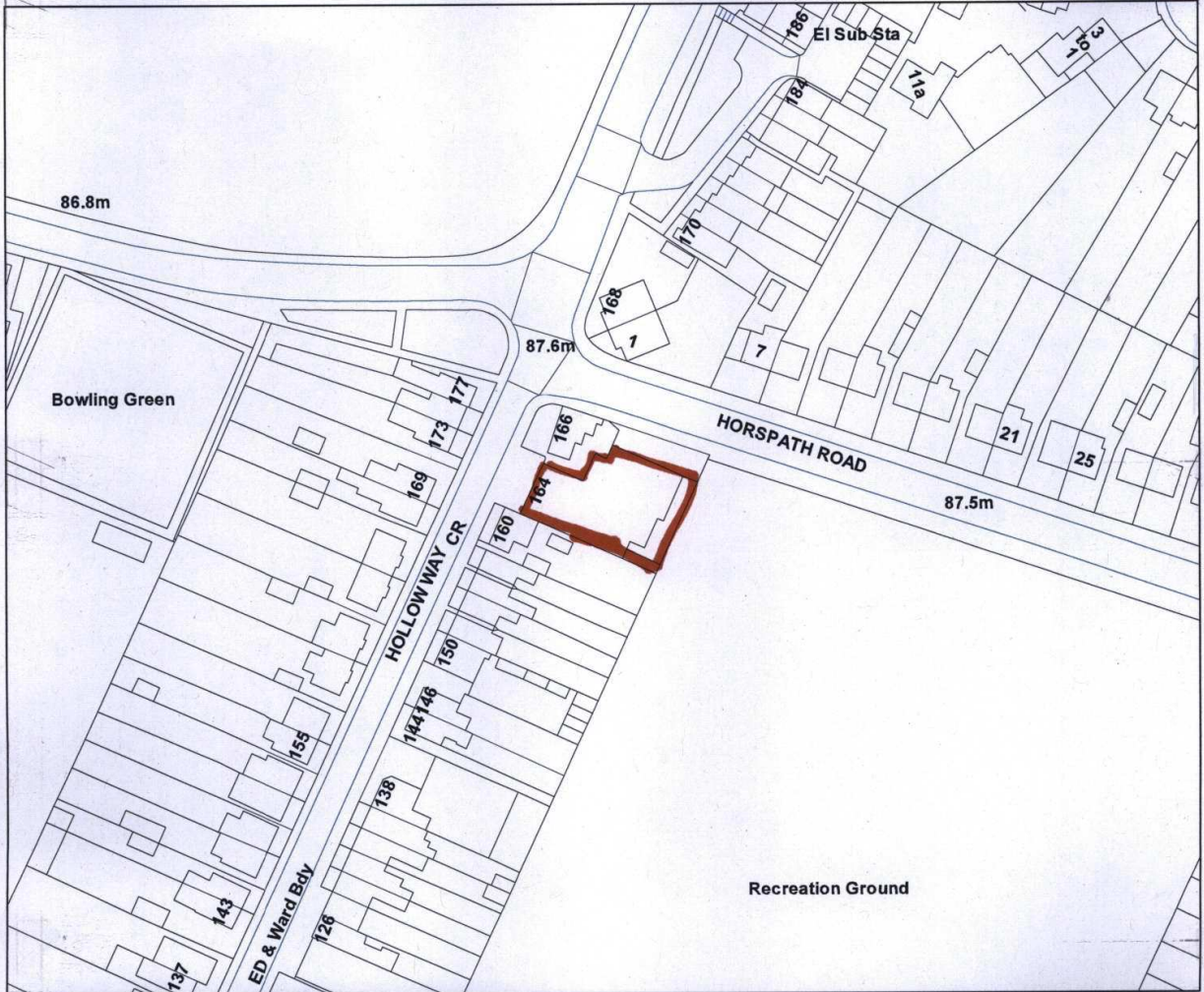
**Contact Officer:** Lisa Green

**Extension:** 2614

**Date:** 15<sup>th</sup> July 2011

# 11/00765/FUL

## 162-164 Hollow Way



**Legend**

Scale: 1:1250



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Organisation	Not Set
Department	Not Set
Comments	Appendix 1
Date	19 July 2011
SLA Number	Not Set

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