

## **CABINET– 22 MAY 2018**

### **PROPOSED RESTORATION OF PARKING PERMITS TO WINGFIELD HOUSE, 2A GATHORNE ROAD**

#### **Report by Director for Planning and Place**

#### **Introduction**

1. Following the rescission of the Cabinet Member decision on 8 February 2018 further formal consultation and car parking surveys have been carried out relating to the proposed amendment to the Oxfordshire County Council (Headington Central) (Controlled Parking Zone and Various Restrictions) Order 2005 as amended (“the CPZ Order”) so as to allow permit eligibility for residents of Wingfield House 2A Gathorne Road Headington.

#### **Background Information**

2. Planning permission for the construction and conversion at 2A Gathorne Road as five flats (and subsequently further extension to provide a maisonette) were granted in May 2007 (07/00399/FUL) and May 2011 (11/00875/FUL) subject to a condition that the authorised development should not be occupied until the traffic order governing parking at the area had been varied to exclude the residents of the property from eligibility for residents’ parking permits and residents’ visitors’ parking permits. The County Council as local traffic authority considered it appropriate to promote, and following consultation, vary the CPZ Order so as to exclude the residents of the property as redeveloped from permit eligibility.
3. The owner of Wingfield House made a planning application to the City Council for a variation of condition (planning ref. 16/00345/VAR & 16/00342/VAR) so as to remove the planning condition that required residents of the property to be excluded from eligibility for parking permits within the CPZ. The county council recommended refusal of the variation of condition on the basis that it changes the principle of the development which was to be car-free, does not result in a sustainable development and the need to protect the existing residents’ access to car parking given the area is already under significant car parking stress.
4. The City Council refused the applications and the owner then appealed this refusal. The Planning Inspector allowed the appeal as on the evidence before him he considered that the applicant demonstrated sufficient capacity was available to accommodate the demand generated by Wingfield House. The Planning Inspector considered parking capacity and highway safety in the appeal decision (APP/G3110/W/16/3160284 & APP/G3110/W/16/3160286). A copy of which can be seen at Annex 1.
5. It should be noted that one of the parking surveys considered in the above appeals were surveys undertaken by the county council for the Access to

Headington project and therefore covered a much wider area than is considered reasonable walking distance from Wingfield House to access car parking. Other surveys considered in the appeal were undertaken using the Lambeth Methodology but are now out of date given they were undertaken two years ago.

6. At the Cabinet Member for Environment's Delegated Decision meeting on 12 October 2017 a report was considered on the proposed CPZ Order variation so as to provide parking permits for Wingfield House, due to the successful appeal. Following consideration of the officer's report (Annex 2) which recommended approval of the proposed changes and representations made both in support of the proposal by the representative of the owner of the property, and also those against made by local residents, the local member and the Opposition spokesman for Environment, the Cabinet Member for Environment decided not to approve the proposed provision of parking permits. The minute of the decision is at Annex 3.
7. Following the above meeting, on the 18 December 2017 the County Council received a letter from the legal representatives of the owner of the property citing grounds on which they considered the decision by the Cabinet Member for Environment were not valid. A response was sent by the County Council on 4 January rebutting the cited grounds, but acknowledging that in the Minute of the decision, the reasons could be better expressed and that on this basis alone it would be recommended to the Cabinet Member for the Environment that the decision should be rescinded. Despite this proposal, on 30 January 2018 the owner (Harold Grant) filed a judicial review claim challenging the Cabinet Member's decision.
8. The 12 October 2017 decision was rescinded by the Cabinet Member for Environment's Delegated Decision on 8 February 2018 (Annex 4) to allow a comprehensive review of the proposal including an up-to-date survey of on-street car parking demand in the area. Subsequently, Robin Purchas QC (as deputy High Court Judge) refused Mr Grant permission to claim judicial review and certified that his claim was totally without merit. A copy of the Court Order is found at Annex 5.

## **Legal Background**

9. It is important to note that Section 122 Road Traffic Regulation Act 1984 does not oblige the county council to follow the result of the planning appeal, which allowed the variation of the condition to make Wingfield House eligible for parking permits, when deciding on highways and transport related matters. The deputy High Court Judge made this point in his order. Parking orders and various other traffic orders are a function of the County Council as local traffic authority further to powers conferred by the above Act. Section 122 of that Act specifies that it is the duty of a local authority upon whom functions are conferred by the act to exercise them (so far as practicable having regard to matters specified below) so as to secure the expeditious convenient and safe movement of vehicular and other traffic (including pedestrians) and the provision of suitable and adequate parking facilities on and off the highway. The matters referred to are:-

- a. the desirability of securing and maintaining reasonable access to premises;
  - b. the effect on the amenities of any locality affected and (without prejudice to the generality of the paragraph) the importance of regulating and restricting the use of roads by heavy commercial vehicles, so as to preserve or improve the amenities of the areas through which the roads run;
  - c. national air quality strategy (S80 Environment Act 1995);
  - d. the importance of facilitating the passage of public service vehicles and of securing the safety and convenience of persons using or desiring to use such vehicles; and
  - e. any other matters appearing to the local authority to be relevant.
10. In light of the above, it can be seen that the relevant legislation sets out a series of factors to be considered and weighed in the balance.
11. The county council as the local traffic authority is also subject to the duty imposed by S16 of the Traffic Management Act 2004 being a duty to manage their road network with a view to achieving, so far as may be reasonably practicable having regard to their other obligations, policies and objectives, the objectives of securing the expeditious movement of traffic on the authority's road network and facilitating the expeditious movement of traffic on road networks for which another authority is the traffic authority.

### **Formal Consultation**

12. The previous consultation on the proposed variation to the CPZ Order started on 7 September 2017. 36 residents, including the Residents Association, the Windmill Road Residents Action Group, the local Cyclox representative, and both City and County Councillors objected to the proposal to provide full parking permit eligibility to the flats at Wingfield House, 2A Gathorne Road.
13. The consultation on the proposed variation to the CPZ Order has been repeated as the matter is to be considered afresh. A copy of the draft variation order, statement of reasons, and a copy of the public notice appearing in the local press were sent to formal consultees on 15 March 2018. These documents, together with supporting documentation as required, were deposited for public inspection at County Hall. They were also deposited at local libraries and are available for inspection in the Members' Resource Centre. At the same time, the Council wrote to local residents affected by the proposed changes, asking for their comments. Finally, public notices were displayed as appropriate, and in the Oxford Times.
14. It should be noted that the owner of Wingfield House and his representatives were unfortunately not included in this consultation by mistake. However, this was rectified and the party was given sufficient time to respond to the consultation by extending the deadline for comments.
15. A copy of the consultation responses can be found at the Members Resource Centre. A summary of the consultation responses received is presented below in Table 1.

**Table 1 – Summary of Consultation Responses**

|  | <b>Object</b> | <b>Support</b> | <b>No objection</b> |
|--|---------------|----------------|---------------------|
| Residents  | 34            | 1              |                     |
| Other respondents  |               | 18             |                     |
| Councillors  | 3             |                |                     |
| Thames Valley Police   |               |                | 1                   |
| Windmill Road Residents' Action Group                                  | 1             |                |                     |
| St Anne's, Gathorne, Margaret Roads & Rock Edge Resident's Association | 1             |                |                     |
| Quarry Rovers Football Club  |               | 1              |                     |
| <b>Total</b>   | <b>39</b>     | <b>20</b>      | <b>1</b>            |

16. The reason cited by supporters is the availability of car parking spaces on roads in the vicinity of Gathorne Road.
17. The main reasons cited by objectors are as follows:
- Insufficient parking available for existing residents and visitors;
  - Allowing Wingfield House access to parking permits will put further pressure on parking which is already limited;
  - Access to Headington proposals would result in a reduction of parking spaces in the area which is already under pressure;
  - Setting a precedent for developments similar to Wingfield House to apply for a variation of condition and access the CPZ;
  - Additional pollution, frustration and congestion caused by cars cruising around to find an available space;
  - Impact of additional parking pressure on older residents and families with young children;
  - Variation of condition would be against county council policies;
  - Increased occurrence of indiscriminate and illegal parking;
  - Developer could have provided on-site car parking if required rather than applying for a variation of condition after the development was built and occupied;
  - Residents of Wingfield House have access to sustainable transport modes in this area.

### **Car Parking Surveys**

18. The county council commissioned car parking surveys, in accordance with the Lambeth Methodology (Annex 6), a standard methodology in the industry, and these were carried out to estimate parking stress on Tuesday 20th, Thursday 22nd and Saturday 24th February 2018.
19. The parking survey was undertaken overnight to capture peak demand and covered a 200 metres radius of Wingfield House, as this is considered to be a

reasonable (2min) walk. Again, this is based on the Lambeth Methodology. The results and a plan showing the geographical extent of the survey can be found at Annex 7. It should be noted that the Lambeth Methodology states that where a short distance of a road falls within the 200m radius, these should be discounted to reflect behaviour of those looking for a car parking spaces close to their home. Therefore, Rock Edge Close has not been included as only 20 metres of it is within 200 metres of Wingfield House.

20. The proposed parking changes as a result of the Access to Headington project are as follows and will result in the net decrease of two spaces in the local area as below:
- 8 spaces lost on Windmill Road
  - 1 additional space on Gathorne Road
  - 5 additional spaces on St Annes Road
21. Wingfield House comprises 4 x 1 bed flats and 2 x 2 bed flats. The potential car parking demand from the development, should the properties be eligible for parking permits, has been assessed using 2011 Census data. Census data suggests that car ownership in the Headington and Quarry and Risinghurst output areas is 1.1 vehicles per household (a copy of the census data is at Annex 8). This would suggest that Wingfield House is likely to generate the demand for circa six car parking spaces.
22. The tables below show the results for the weekday and Saturday. Local Authorities in London consider 80% occupancy of on-street parking as an indication of high parking stress. Any parking occupancy over 80% has been highlighted in the tables below.

**Table 2 – Tuesday 20 February 2018 car parking occupancy (pre-Access to Headington)**

| Road  | Occupied  | Capacity  | % Occupancy | Spare Capacity |
|---|-----------|-----------|-------------|----------------|
| Gathorne Road                                       | 29        | 24        | 121%        | -5             |
| St Annes Road                                       | 29        | 31        | 94%         | 2              |
| Windmill Road                                       | 18        | 39        | 46%         | 21             |
| <b>Total</b>  | <b>76</b> | <b>94</b> | <b>81%</b>  | <b>18</b>      |
| <b>Total plus Wingfield House demand (6 spaces)</b> | <b>82</b> | <b>94</b> | <b>87%</b>  | <b>12</b>      |

**Table 3 – Tuesday 20 February 2018 car parking occupancy (post-Access to Headington)**

| Road  | Occupied  | Capacity  | % Occupancy | Spare Capacity |
|---|-----------|-----------|-------------|----------------|
| Gathorne Road                                       | 29        | 25        | 116%        | -4             |
| St Annes Road                                       | 29        | 36        | 81%         | 7              |
| Windmill Road                                       | 18        | 31        | 58%         | 13             |
| <b>Total</b>  | <b>76</b> | <b>92</b> | <b>83%</b>  | <b>16</b>      |
| <b>Total plus Wingfield House demand (6 spaces)</b> | <b>82</b> | <b>92</b> | <b>89%</b>  | <b>10</b>      |

23. The results for Tuesday 20 February show that both Gathorne Road and St Annes Road suffer from high parking stress currently with some indiscriminate and illegal parking occurring on Gathorne Road. Both roads will continue to suffer from high parking stress following the completion of the Access to Headington proposals. Windmill Road does not suffer from parking stress. Parking occupancy in the area within 200 metres of Wingfield House is over 80% in total indicating high levels of parking stress and the addition of parking demand from Wingfield House will increase this further.

**Table 4 – Thursday 22 February 2018 car parking occupancy (pre-Access to Headington)**

| Road  | Occupied  | Capacity  | % Occupancy | Spare Capacity |
|---|-----------|-----------|-------------|----------------|
| Gathorne Road                                       | 19        | 24        | 79%         | 5              |
| St Annes Road                                       | 28        | 31        | 90%         | 3              |
| Windmill Road                                       | 17        | 39        | 44%         | 22             |
| <b>Total</b>  | <b>64</b> | <b>94</b> | <b>68%</b>  | <b>30</b>      |
| <b>Total plus Wingfield House demand (6 spaces)</b> | <b>70</b> | <b>94</b> | <b>74%</b>  | <b>24</b>      |

**Table 3 – Thursday 22 February 2018 car parking occupancy (post-Access to Headington)**

| Road  | Occupied  | Capacity  | % Occupancy | Spare Capacity |
|---|-----------|-----------|-------------|----------------|
| Gathorne Road                                       | 19        | 25        | 76%         | 6              |
| St Annes Road                                       | 28        | 36        | 78%         | 8              |
| Windmill Road                                       | 17        | 31        | 55%         | 14             |
| <b>Total</b>  | <b>64</b> | <b>92</b> | <b>70%</b>  | <b>28</b>      |
| <b>Total plus Wingfield House demand (6 spaces)</b> | <b>70</b> | <b>92</b> | <b>76%</b>  | <b>22</b>      |

24. The results for Thursday 22 February show that parking demand in the area is lower when compared to Tuesday 20 February, however the survey on Thursday still shows that St Annes Road suffers from high parking stress currently. This will slightly reduce with the addition of five parking spaces on St Annes Road due to the Access to Headington Project. Again Windmill Road is shown to have spare car parking capacity. Parking occupancy in the area within 200 metres of Wingfield House remains close to 80% in both scenarios.

**Table 5 – Saturday 24 February 2018 parking occupancy (pre-Access to Headington)**

| Road  | Occupied  | Capacity  | % Occupancy | Spare Capacity |
|---|-----------|-----------|-------------|----------------|
| Gathorne Road                                       | 24        | 24        | 100%        | 0              |
| St Annes Road                                       | 24        | 31        | 77%         | 7              |
| Windmill Road                                       | 12        | 39        | 31%         | 27             |
| <b>Total</b>  | <b>60</b> | <b>94</b> | <b>64%</b>  | <b>34</b>      |
| <b>Total plus Wingfield House demand (6 spaces)</b> | <b>66</b> | <b>94</b> | <b>70%</b>  | <b>28</b>      |

**Table 5 – Saturday parking occupancy (post-Access to Headington)**

| Road  | Occupied  | Capacity  | % Occupancy | Spare Capacity |
|---|-----------|-----------|-------------|----------------|
| Gathorne Road                                       | 24        | 25        | 96%         | 1              |
| St Annes Road                                       | 24        | 36        | 67%         | 12             |
| Windmill Road                                       | 12        | 31        | 39%         | 19             |
| <b>Total</b>  | <b>60</b> | <b>92</b> | <b>65%</b>  | <b>32</b>      |
| <b>Total plus Wingfield House demand (6 spaces)</b> | <b>66</b> | <b>92</b> | <b>72%</b>  | <b>26</b>      |

25. The parking occupancy results for Saturday show that Gathorne Road suffers from high parking stress currently and is predicted to continue to suffer from high parking stress following the implementation of the Access to Headington proposals. Similar to the weekdays, Windmill road does not suffer from parking stress on Saturday. Parking occupancy within 200 metres of Wingfield House on a Saturday is approximately 65% in both scenarios, and will continue to be below the 80% limit with the addition of potential demand from Wingfield House.
26. It should be noted that on weekday surveys and Saturday survey indicates spare capacity on Windmill Road. This may reflect the busy nature of the road which makes it unattractive for residents living on Gathorne Road and St Annes Road to use for car parking as they may feel it is unsafe to leave their car and have to cross a busy road.

## Policy Information

27. The Local Transport Plan set outs the Goals and Objectives of the LTP. Goal 2 of the LTP is as follows:  
*To reduce emissions, enhance air quality and support the transition to a low carbon economy – Reduce the proportion of journeys made by private car by making the use of public transport, walking and cycling more attractive.*
28. The Oxford Transport Strategy which forms part of the Local Transport Plan states:  
*The county council will seek to restrict access to parking on the public highway for new developments and change of use developments, such as Houses in Multiple Occupation (HMOs), to protect existing residents' access to parking and reduce parking demand in Oxford.*
29. Oxford City Council's Sites and Housing Plan states in Policy HP16:  
*Planning permission will be granted for car-free or low-parking houses and flats in locations that have excellent access to public transport, are in a controlled parking zone, and are within 800 metres of a local supermarket or equivalent facilities.*
30. County council officers believe varying the CPZ Order to allow Wingfield House residents permits for the CPZ would undermine the above policies which are in place to protect existing residents' access to parking and to reduce the reliance

on the private car. It should though be noted that the Wingfield House inspector did discuss Policy HP16 (see paragraphs 5-6).

### **Cumulative Impact**

31. The variation of the CPZ Order to afford the residents of Wingfield House parking permit eligibility could set a precedent and encourage residents at other properties of “car free development” to seek a comparable variation to the parking order for their zone so that they too become eligible for parking permits. Having granted such a variation for residents of Wingfield House, where no special extenuating circumstances apply, it could be considered inconsistent and inequitable to refuse other applications. Each incremental increases in parking eligibility might have a limited effect but in aggregate would lead to greater parking stress, traffic generation and emissions contrary to the aims of the Local Transport Plan.
32. A recent appeal decision where the Planning Inspector considered the cumulative impact of new developments on CPZs provides useful reference.
33. The application sought to vary the planning condition imposed on planning permission (ref. 17/01202/FUL) for 34A Davenant Road which sought to exclude the development from the CPZ. The development comprised the erection of 1x 5-bed dwelling house and 2x 4-bed semi-detached dwelling houses. The parking provision for the development did not meet adopted parking standards and therefore the county council recommended refusal of the variation of the condition citing overspill parking on the surrounding roads.
34. The Planning Inspector states in the 13 April 2018 appeal decision (ref. APP/G3110/W/17/3188901 – Annex 9):  
  
*‘The CPZ, together with the policies of the development plan, seeks to manage the impact of new development on that limited resource. Although the impact of the appeal scheme alone would be small, it seems to me that the purpose of the policy is to manage the cumulative impact of multiple small changes. If I were to allow the appeal that would have the effect of undermining the policy approach.’*
35. On this basis the Planning Inspector dismissed the appeal. It should be observed that the 34A Davenant Road appeal decision does not oblige the county council to adopt the officer recommendation in this report in the same way that the 10 February 2017 Inspector’s decision on Wingfield House does not oblige the county council to decline to adopt the officer recommendation. However, it serves to demonstrate that different planning inspectors have approached the same issue from very different standpoints.

### **Overall Assessment**

36. The county council is required to consider the proposal applying its statutory duties as local traffic authority. The expansion of permit eligibility as proposed would not facilitate the expeditious convenient and safe movement of vehicular and other traffic nor secure provision of suitable and adequate parking facilities



which are factors the county council have to secure so far as is practicable, in accordance with under S122 as explained at paragraph 9. Rather in light of the parking survey results this is likely to exacerbate parking stress on Gathorne Road and taking account of cumulative impact, which could arise by virtue of this case providing a precedent, is likely to lead to other “car free properties” seeking eligibility for parking permits.

37. As to the various matters to which the County Council should have regard so far as practicable as identified at paragraph 9, the proposal would not directly impact upon reasonable access to premises or bus services but the objectors consider the proposal would be adverse to local residential parking amenity. The increased traffic generated by the proposal alone would not materially affect air quality.
38. As to other relevant matters, regard has been had to the planning inspector’s decision on Wingfield House (which generated the proposal for the CPZ Order variation) as well as the 34A Davenant Road decision.
39. However, the Planning Inspector stated in his decision (paragraph 16) that he could only determine the appeal on the information before him and did not profess to apply the statutory regime applying to traffic regulation matters as it was a planning appeal. Whilst self-evidently the owner of Wingfield House considers that approval of the proposal would be in his interest and those of the residents at Wingfield House and off-street parking accommodation is not available at the property, the approval of the proposal would be contrary to the interests of other residents at Gathorne Road as well as infringing city and county policies.

## **Conclusion**

40. Varying the Traffic Regulation Order to allow Wingfield House access to the CPZ would undermine policy in place to protect existing residents’ access to parking and to reduce the reliance on the private car. The updating parking survey results, whilst mixed, show acute parking stress already exists on Gathorne Road in particular for much of the time. This is borne out by objectors. Allowing Wingfield House access to the CPZ would set an undesirable precedent, although the officer recommendation is put forward on the individual merits in any event. Having regard to these matters, and the statutory duties, it is considered by officers that the county council should not vary the CPZ Order so that residents of Wingfield House become eligible for parking permits.

## **Financial and Staff Implications**

41. Should the Cabinet not follow the officer recommendation the cost of the variation to the CPZ Order under consultation, including that described in this report, will be met from the fund set up for this purpose.

## **RECOMMENDATION**

42. **The Cabinet is RECOMMENDED not to approve the proposed changes to the CPZ Order as set out in the report.**

**SUE HALLIWELL**

Director for Planning and Place

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