



BrookStreet des Roches LLP

Our Ref: KK.SMR.12809

Your Ref:

Oxfordshire County Council  
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2 January 2008

**URGENT – RE MEETING 3 JANUARY 2008 AT 10AM**

Dear Sir,

**Our Clients: Dr B and Mrs E Cocking  
The Property: 7 Nelson Street, Oxford, OX2 6BD**

We refer to the above matter and our letter to the council dated 8 November 2007.

We understand that the Committee meeting which is to be held tomorrow, Thursday 3 January 2008 at 10am, is to decide, amongst other things, the exclusion of various residential properties from residents and visitors parking schemes in Oxford.

Our clients are extremely concerned to have only received this morning, by e-mail, a copy of the report prepared by the Head of Transport with recommendations for tomorrow's meeting.

Alarming and notwithstanding the issues raised in our letter of 8 November 2007 (copy attached) the report proposes at paragraph 8(b) that our clients' property be excluded from the eligibility for residents and visitors parking permit.

We are perplexed that the proposals at paragraph 8(b) of the report clearly contradict the observations of the Director of Environment and Economies' recommendation noted at entry 17, page 10 of the table attached to the report. The recommendation of the Director of Environment and Economies' states that our clients' property ought not be excluded from permit eligibility however this recommendation appears to have been ignored. When we made enquiries by telephone this morning as to why this was it was suggested that this was because no letter had been received from the Local Planning Authority. This is preposterous.

For the reasons set out in our lengthy correspondence of 8 November 2007 (to which we note the majority of the legal issues raised have not been addressed) our clients vehemently object to the proposal at paragraph 8(b) of the report dated December 2007. The partial concession that our clients will be permitted to have a permit for as long as they remain owners of the property offers little comfort as the effect of this will mean the value of their property will be substantially diminished. Should the Council proceed with its decision our clients will have little option but to pursue a claim against the Council for damages equating to the diminution in the value of their property due to this decision together with interest and costs. Our clients also entirely reserve their rights to seek a Judicial Review of this decision if implemented.

In addition to the effect the proposal will have on valuation, it has also been disputed by our clients that the Section 106 Agreement (upon which the Council seem to be relying upon in justifying the exclusion of our clients' property from the parking scheme) specifically relates to our clients' property as opposed to number 8 Nelson Street. You have failed to address this issue.

In the circumstances we suggest that the better course would be that the Council do not proceed to recommend that the exclusion takes place in relation to our clients' property while a full investigation is made by the Council as to how they have concluded that the Section 106 Agreement relating to this property firstly identifies that it is our

clients' property, as opposed to number 8 Nelson Street, was nominated to be excluded from the scheme and also how this Section 106 Agreement was omitted from the Local Authority Search.

Yours faithfully



BrookStreet des Roches LLP

cc: Dr B and Mrs E Cocking (by e-mail)  
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8 November 2007

**For the attention of R Dudding - Director for Environment & Economy**

Dear Sir,

**Our Clients: Dr B and Mrs E Cocking**  
**The Property: 7 Nelson Street, Oxford, OX2 6BD**

We act on behalf of Dr B and Mrs E Cocking.

Our clients are the residents and occupiers of the above Property, 7 Nelson Street and we have been instructed in relation to Notices that have been posted in the area reference Traffic Regulation Orders.

Our clients moved to the area on 5<sup>th</sup> October 2007 from London to set up a new life here. It is perhaps helpful therefore at this stage to set out a brief history of their dealings prior to their move.

Mrs Cocking accepted a job as a Publisher at Oxford University Press and consequently our clients decided to move from London and relocate permanently in Oxford. Accordingly, they searched for a family home in the area. In the summer of this year they found the Property and whilst it required a considerable amount of work, our clients decided that this was the home they wished to settle in and looked forward to renovating the Property and making it a family home they would enjoy for years to come.

Our clients viewed the Property on several occasions and upon asking the estate agent's representative the position with reference to parking, were led to believe that properties in the area were eligible for residents and visitors' permits. Of course the intimation from the estate agent is a matter that our clients will be seeking to take up with them.

Prior to completion of the purchase of the Property, and in order to ensure that the parking permits were obtained as swiftly as possible following completion, Mrs Cocking contacted the Oxford Parking Shop and made enquiries as to how to obtain residents permits. Mrs Cocking provided the full address of the Property and it was explained to her that she had to provide a proof of purchase and other documentation, such as vehicle registration and that permits could then be obtained. Our clients were never informed that the Property was exempt from parking, nor were they informed that it was possible for properties in the area to be exempt in this manner and that perhaps they should make further enquiries. Our clients were clearly led to believe that upon the provision of various documents to the Parking Shop they would be supplied with the relevant parking permits.

Negotiations in respect of the Property continued and on 5 October 2007 the purchase of the Property was completed.

Following completion, our clients went to the Parking Shop with their documentation and at that time they were informed that their Property was not eligible for residents parking. Our clients were of course shocked and dismayed at this suggestion as it did not accord with their understanding of the situation and more importantly, our clients would never have entertained purchasing any property which would not be eligible for parking permits.

It was at this point, that our clients began to make further enquiries, with their conveyancing solicitors, the Estate Agent, Council, Parking Shop and local councillors. What has transpired is of course of great concern to our clients.

Our clients were informed by the Parking Shop and the Council that their Property was excluded some years ago from eligibility for permit parking as a result of Planning Permission No. 99/00980/NS and a related Section 106 Agreement dated 10 January 2000 between Tingate Limited and the Oxford City Council. We will discuss this in detail in due course.

Shortly after these initial discoveries, the Oxfordshire County Council placed Notices around the area regarding proposals to make various Controlled Parking Zone and Variation Orders, the affect of those proposed Orders being to exclude numerous properties from eligibility for residents and visitors' permits. Our clients' Property is of course one of those properties affected.

Until this point, our clients had been denied any permits for parking at all. However, it became absolutely clear upon sight of the Council's Notices that in fact any restrictions in relation to parking had not yet been enforced. Following our instruction, our clients of course therefore made further enquiries of the Council and have now been duly granted residents and visitors' parking permits, expiring in March 2008.

This series of events has of course been of great concern to our clients and they have therefore sought to obtain as much information as possible in order to make known their objections to the Council's proposals. We have had sight of various documentation obtained from the Council.

We are aware that in June 1999 Tingate Limited (the Developer) submitted a Planning Application to reinstate numbers 7 & 8 Nelson Street into two dwellings from its use as a Public House. In the architect's initial letter to the Council dated 15 June 1999, it was stated that they believed the site should qualify for residents parking as the existing use encouraged some car usage in any event and the provision of two residential units in place of the Public House would not generate any additional parking. Of course, the Public House had previously been two separate dwellings.

It is noteworthy that in response to this Planning Application, only two objections were filed which raised concerns regarding parking, out of in excess of 120 neighbours who were consulted and various consultees.

Notwithstanding the above, in a letter dated 27 July 1999, the Head of Planning Control & Conservation at that time stated that as the site lay within the Central Transport Area and with regard to the fact that the Public House also provided residential accommodation with no off street parking, it was considered that only one residents parking space was appropriate. Accordingly one of the converted dwellings would be excluded from the residents parking zone and a contribution of £1,000 plus legal expenses would be required from the Developer in this regard.

In response to this, the Developer's architect stated in a letter dated 29 July 1999 that the Developer would be prepared to enter into a Section 106 Agreement with the Council which would remove one of the proposed dwellings from the residents parking zone, thus giving one property parking and the other none.

It was thus agreed that a Section 106 Agreement would be entered into and this was duly carried into effect.

It is apparent that the Section 106 Agreement entered into between the parties related to both 7 & 8 Nelson Street and states that the sum of money paid by the builder would be used towards "the costs of amending the Road Traffic Order for the area which limits on street parking in the vicinity of the land to residents only so that **one** of the dwellings on the land is excluded from the residents parking provisions and/or to administer or enforce the said Order". It should be noted therefore that both numbers 7 and 8 were referred to and there was no indication whatsoever as to which property would in fact be excluded.

Notwithstanding the above, we have had sight of a letter dated 9 December 1999 which suggests that the Developer nominated number 7 as the property to be excluded from the residents parking provision. Clearly our clients do not wish to cause difficulties for the residents of number 8, however, if the Council does not take into account our clients' objections and intends to proceed with the exclusion suggested, we will require full details as to why number 7 should be excluded as opposed to number 8 and the details surrounding why such a nomination was made at all. Moreover, given that this was a planning issue it is not clear why the decision of nominating one of the two properties was left to the Developer to make in any event.

We are aware that the Developer made the relevant payment to the Council and of course, as can be seen from recent developments, the Council clearly failed to carry into effect any amendment to the Road Traffic Order at that time and is only now seeking to do so.

Again, we would point out at this stage, that in the event that the Council proceeds to exclude our clients' Property, we will require details as to how the above funds, which were presumably paid by the Developers and/or occupants of numerous properties, have been utilised for the past 7 years. We assume that many properties which have been subject to such agreements or similar arrangements will have contributed sums of money to the Council and clearly if this money has simply been accruing and has not been used as it was intended, our clients are of the view that it could well have been invested by the Council as a contingency fund for such a time as this when serious concerns about on street parking have arisen. For example, the money could well have been used to create more centralised off street residents parking.

It is appropriate perhaps at this stage also to point out that notwithstanding the Developer's apparent nomination we understand from the previous owner of the Property, that she in fact obtained a residents permit in 1999/2000. We are making enquiries as to whether any permits were obtained after this time as the Property was later rented out to Tenants.

There has clearly been a catalogue of errors.

Our clients were not informed by the Oxford Parking Shop, as we believe they should have been, that they were not going to be eligible for residents parking in accordance with the, in fact incorrect, details on their system. In fact our clients are eligible as the relevant Order has not been put in place. However, as the Oxford Parking Shop has itself admitted, the Property has, for reasons unbeknown to us, been 'excluded' from parking on their system for some time.

Had our clients been provided with the appropriate information by the Parking Shop, they are in no doubt that they would not have proceeded without first clarifying the position and indeed had they been made aware that they may face such a predicament they would simply have pulled out of the purchase altogether.

It has been intimated by the Council during the course of various e-mail exchanges with our clients that this is an issue to be raised with our clients' conveyancing solicitor. This is of course something which our clients will consider as necessary, however, it should be noted that whilst we understand the Notice of Grant of Planning Permission was provided to our clients' conveyancing solicitors, this makes no reference whatsoever to the Section 106 Agreement in place. It should also be noted that our clients' conveyancing solicitors have contacted the Council on a number of occasions since completion enquiring as to why no reference was made to the Section 106 Agreement and they have only literally in the last couple of days received the courtesy of any response.

In the above response, we understand that the Council has in fact apologised for the lack of reference to the Section 106 Agreement in the pre contract enquiries. We understand that the reason the Council has given for this serious omission, which of course has serious implications upon our clients as we can see, is that at present the Council is in the process of transferring all Land Charges records from paper to a computerised system. Evidently it is the Council's practice to provide search agents with a pre prepared printout of the electronic version, however, in this instance, this pre prepared version did not include reference to the Planning Agreement, due to this transition. We understand our clients' previous solicitors will also be writing to the Council.

We think you would agree that this is a somewhat shocking discovery and one which highlights an extreme failing on behalf of the Council. We wish to make it clear at this juncture that our clients will be investigating this thoroughly, particularly in the event that the Council's proposals to exclude their Property are carried into effect.

We understand that whilst it was the City Council who entered into the Section 106 Agreement in early 2000, it is in fact now the County Council who is responsible for dealing with the administration of the various parking zones within the city and they appear to be in the process of catching up with long outstanding Traffic Regulation Orders, this of course being one of them. This delay has been extremely prejudicial to our clients and we would point out that they will be fully investigating the possibility of further action they may take in this regard in the event that the proposed Order is put in place and the objections herein not taken into consideration.

In purchasing a family home, our clients have made a considerable financial commitment. As we have indicated, the Property is currently in a very poor condition and essential works need to be carried out such as damp proofing and rendering to the front of the Property. The renovation is of course a great benefit to both the immediate neighbours and the area as a whole.

Whilst our clients are extremely concerned for the environment and do not use cars unnecessarily, their quality of life is fundamentally threatened by the Council's proposal to exclude their Property's eligibility for residents and visitors parking. As an academic, Dr Cocking works from home or in the local area on research as well as having to travel widely between campuses in London. Before residents' permits were granted to our clients, he was forced to park his car in a parking bay, set an alarm and then move the car at regular intervals to comply with the various parking restrictions. This is clearly not a viable means of living. In addition, Mrs Cocking regularly visits authors around the country and is often expected to undertake such journeys by car. Furthermore, our clients plan to have a family in the near future and being able to park their car in their road, like other neighbours, will be essential to ensuring a reasonable quality of life.

Most importantly, our clients are incredibly close to their aging parents and extended family. Without parking permits it will be very difficult for friends and family to stay for extended periods of time. Whilst the Park and Ride schemes are beneficial to reducing cars congestion, particularly with shoppers and occasional visitors to Oxford, it seems wholly unfair to penalise the odd property in this manner. Our clients' Property is one of two properties on the road affected.

It is noteworthy that some properties on Nelson Street have garages built into them. Notwithstanding this, in addition to their garages they are eligible for two (or up to four) residents parking permits. Again, if parking spaces are the primary concern it would seem logical to limit or exclude such properties from eligibility for residents parking permits rather than arbitrarily excluding other properties.

Whilst our clients understand that there clearly are a finite number of parking spaces in Jericho and Oxford, more generally, it is not clear as to why the Council should arbitrarily exclude some properties and not others in order to limit the demand for residents parking. Any lack of parking space is not the fault of residents, it is the fault of town planning and our clients feel it should be addressed at this level. We are concerned that there is no equality in the decision to exclude some properties and not others. If parking spaces are in high demand, the Council cannot discriminate, the rules need to be applied fairly and consistently across all residents' properties. For example, why not limit all properties to one space? The fact that residents are likely to object to this is part of a fair and democratic process in relation to which the community have a right to appeal through the local elections. However, to discriminate outside of this process is unfair and prejudicial.

Numerous building developments are currently being undertaken in Jericho, in particular, one whole side of Worcester Place (one street away from the Property) has had residents parking bays taken over by building contractors for several months. Despite this additional demand on parking spaces in Jericho, since obtaining residents permits our clients have encountered no difficulty in finding parking spaces, nor have they encountered any complaints about parking their cars. Indeed, on Nelson Street and the roads immediately around it, significantly large sections of the residents parking bays remain vacant day and night, week day and weekend.

As council tax payers and citizens of Oxford our clients feel that they should be entitled to the same services and benefits as their neighbours and the Jericho community as a whole.

Should the Council proceed and exclude our clients' Property from residents parking it will simply not be worth the price our clients have only recently paid for it. They will face extreme difficulty should they try to sell the Property in future. Our clients have invested heavily and have taken a large mortgage to be part of this community. Indeed, with no parking eligibility the Property may only be viable if it is let out, as my clients believe from neighbours that it has been for some time. It is surely in the interests of the neighbourhood and area as a whole that the Property be used as a family home and that it is kept in a good state of repair.

We trust that our clients' position has been clearly set out. This matter is of great concern to our clients, so much so that they have expended funds on professional assistance in their response to the Council, so concerned are they to ensure that all points are made. Our clients would like to resolve these issues in an amicable manner but clearly, as we have indicated, if the issues stated are not accepted by the Council and the Council proceeds to exclude their Property from permit parking, they will be forced to consider all options available to them, and this may well include a formal review of decisions made by the Council.

We look forward to hearing from you.

Yours faithfully

**BrookStreet des Roches LLP**