

Agenda

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West Area Planning Committee

Date: **Tuesday 5 January 2016**

Time: **6.30 pm**

Place: **The Old Library, Town Hall**

For any further information please contact:

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As a matter of courtesy, if you intend to record the meeting please let the Contact Officer know how you wish to do this before the start of the meeting.

West Area Planning Committee

Membership

Chair	Councillor Louise Upton	North;
Vice-Chair	Councillor Michael Gotch	Wolvercote;
	Councillor Elise Benjamin	Iffley Fields;
	Councillor Colin Cook	Jericho and Osney;
	Councillor Andrew Gant	Summertown;
	Councillor Alex Hollingsworth	Carfax;
	Councillor Michele Paule	Rose Hill and Iffley;
	Councillor Bob Price	Hinksey Park;
	Councillor John Tanner	Littlemore;

The quorum for this meeting is five members. Substitutes are permitted

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AGENDA

Pages

1 **APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

2 **DECLARATIONS OF INTEREST**

3 **LAND AT JERICHO CANALSIDE: 14/01441/FUL - AMENDED PLANS AND LEGAL AGREEMENT**

11 - 256

Site Address: Land At Jericho Canal Side Oxford

Proposal: Demolition of various structures on an application site including former garages and workshops. Erection of 23 residential units (consisting of 13 x 3 bed and 1 x 4 bed house, plus 5 x 1 bed and 4 x 2 bed flats), together with new community centre, restaurant, boatyard, public square, winding hole and public bridge across the Oxford Canal. Demolition of existing rear extension and erection of two storey extension to Vicarage at 15 St. Barnabas Street and ramped access to church entrance. (Amended plans)

Report:

Section 1 and Appendices A and B deal with:

1. Amended plans submitted in relation to the Boatyard element of the proposal and impact on No.9 Coombe Road; and
2. Update following a meeting with the Canal and River Trust and the St Barnabas Parochial Church, the JWT, the Applicant and Architect to discuss the Church's concerns regarding the location of the bridge at the southern end and allay their concerns regarding use of the new public open space.

Section 2 and Appendices 1-7 deal with the S106 agreement.

Summary of Overall Recommendations:

1. Officers recommend that West Area Planning Committee approve the amended plans submitted in relation to the Boatyard,
2. It is recommended that Committee considers the potential impact to trees and heritage assets arising from a second bridge at the northern end of the site and on balance agree the principle of a second bridge to the north of the site, as shown on the submitted plans, secured via the S106 but subject to a separate planning application in due course; and
3. It is recommended that Committee endorses the recommendations set out in Section 2 and instructs officers to issue a fresh draft S106 on that basis with the further instruction to report to the Chair and Vice-Chair of the Committee within four weeks of the issue of that draft as to ongoing progress.

4 **WESTGATE CENTRE AND ADJACENT LAND: 14/02402/CND4, 14/02402/CND3, 13/02557/CND12, 14/02402/CND**

257 - 272

Site Address: Westgate Centre And Adjacent Land Encompassing The

Existing Westgate Centre And Land Bounded By Thames St, Castle Mill Stream, Abbey Place, Norfolk St, Castle St, Bonn Square, St Ebbes St, Turn Again Lane And Old Greyfriars St.

Proposal: Application Numbers:

- (1) 14/02402/CND4 Details submitted in compliance with condition 5 (public realm works) of planning permission 14/02402/RES.
- (2) 14/02402/CND3 Details submitted in compliance with condition 8 (Details of Lantern to Building 4) of planning permission 14/02402/RES.
- (3) 13/02557/CND12 Details submitted in compliance with conditions 21 (cycle parking) and 22 (cycle facilities) of planning permission 13/02557/OUT
- (4) 14/02402/CND Details submitted in compliance with conditions 6 (landscaping) and 17 (elevational treatments) of planning permission 14/02402/RES

Officer recommendation:

1. To approve the details submitted in compliance with conditions 21 (cycle parking) and 22 (cycle facilities) of outline permission 13/02557/OUT and condition 5 (public realm) and 8 (lantern design) of the reserved matters permission 14/02402/RES
2. To approve the amendments to the details approved under conditions 6 (landscaping) and 17 (elevational treatments) of reserved matters permission 14/02402/RES
3. To delegate to officers the ability to determine any future minor amendments that may be submitted as part of each of these conditions.

**5 LAND AT ELECTRICITY SUB STATION, 299C IFFLEY ROAD:
15/03189/FUL**

273 - 284

Site Address: Electricity Sub Station adjacent 299C Iffley Road.

Proposal: Demolition of existing electrical substation. Erection of 2 x 3-bed semi-detached dwellinghouses (Use Class C3). Provision of private amenity space, bin and cycle store and parking for 4 vehicles.

Officer Recommendation: to approve planning permission subject to conditions:

1. Development begun within time limit.
2. Develop in accordance with approved plans.
3. Materials.
4. Design - no additions to dwelling.
5. Surface water management.
6. Cycle Stores.
7. Landscaping.
8. Parking area.
9. Obscure Glazing.
10. No side windows.
11. Boundary treatments.

12. Contaminated land condition.
13. No access to Boundary Brook Road.
14. Biodiversity.

6 TINBERGEN BUILDING, SOUTH PARKS ROAD : 15/03105/FUL

285 - 304

Site Address: Tinbergen Building, South Parks Road, Oxford

Proposal: Erection of 2 storey extension together with rear extensions at levels D, E and F, new entrance, lay-bys and nitrogen tank.

Officer recommendation: to approve the application subject to conditions:

1. Development begun within time limit.
2. Develop in accordance with approved plans.
3. Materials as specified.
4. Landscape plan required.
5. Landscape hard surface design - tree roots.
6. Landscape underground services - tree roots.
7. Tree Protection Plan (TPP) 2.
8. Arboricultural Method Statement (AMS) 1.
9. Biodiversity Enhancements.
10. Cycle parking.
11. No external lighting.
12. Plant Design.
13. Flue and External Staircases.
14. PD Rights - Part 2, Class C.
15. Enclosure of Nitrogen Tank.
16. Noise.
17. Energy Measures.
18. Archaeology.
19. Repeat Ecology survey (within 12 months).
20. No vegetation clearance (March-August).

**7 OLD PARSONAGE HOTEL, BANBURY ROAD OX2 6NN:
15/01733/FUL**

305 - 314

Site Address: Old Parsonage Hotel, Banbury Road, OX2 6NN.

Proposal: Erection of free standing frame and canopy (Retrospective).

Officer Recommendation: to refuse planning permission for the following reasons:

The proposal, by virtue of its prominent location, siting, design, scale, mass and use of materials is unacceptable forming an unsympathetic visual relationship to its host building which is harmful to and fails to safeguard the special architectural and historic interest of this Grade II Listed Building, the setting of a nearby Grade I Listed Building. The proposal also fails to preserve or enhance the character and visual quality of the street scene and this part of the Central Conservation Area. The proposal is contrary to policies 'CP1, CP8, CP9, CP10, HE3, HE7' of the 'Oxford City Council Local Plan' 2005; and 'Policy CS18' of the 'Oxford City Council Core Strategy' 2011; and Oxford City Council's Supplementary Planning Document on 'High Quality Design' 2015; and 'Paras 129, 132 and 134' of the 'National Planning Policy framework' 2012 and 'Paras 013, 015, 019 and 020' of the 'National

8	PLANNING APPEALS	315 - 320
	Summary information on planning appeals received and determined during November 2015.	
	The Committee is asked to note this information.	
9	MINUTES	321 - 330
	Minutes from the meetings of 1 December and 15 December 2015	
	Recommendation: That the minutes of the meetings held on 1 and 15 December 2015 are approved as a true and accurate record.	
10	FORTHCOMING APPLICATIONS	
	Items for consideration by the committee at future meetings are listed for information. They are not for discussion at this meeting.	
	<ul style="list-style-type: none">• Dragon School, Bardwell Road: 15/01562/FUL• 26 Norham Gardens: 15/01601/FUL• 54 St John Street OX1 2LQ: 15/01676/FUL and 15/01677/LBC• Land south of Manor Place: 15/01747/FUL• 18 Hawkswell Gardens: 15/02352/FUL• 8 Hollybush Row: 15/02694/FUL• Cooper Callas Building (15 Paradise Street And 5 St Thomas' Street): 15/02971/FUL• 33 St Ebbe's Street: 15/03077/FUL• Hollybush Public House: 15/03050/FUL• 15 Rosamund Road, Wolvercote: 15/03027/VAR• 8 Richmond Road: 15/03306/FUL• Spice Lounge, 193 Banbury Road OX2 7AR: 15/03108/FUL• 72 Bulan Road: 15/03595/FUL• Spanish civil war memorial, Bonn Square: 15/02859/FUL	
	Application 36, 38 and 40 London Road and 2 Latimer Road: 15/00858/FUL has been called into the Planning Review Committee.	
11	DATES OF FUTURE MEETINGS	
	The Committee will meet on the following dates:	
	9 February 2016	
	8 March 2016	
	12 April 2016	
	The Committee is asked if it wishes to alter the start time of the meeting.	

DECLARING INTERESTS

General duty

You must declare any disclosable pecuniary interests when the meeting reaches the item on the agenda headed "Declarations of Interest" or as soon as it becomes apparent to you.

What is a disclosable pecuniary interest?

Disclosable pecuniary interests relate to your* employment; sponsorship (ie payment for expenses incurred by you in carrying out your duties as a councillor or towards your election expenses); contracts; land in the Council's area; licenses for land in the Council's area; corporate tenancies; and securities. These declarations must be recorded in each councillor's Register of Interests which is publicly available on the Council's website.

Declaring an interest

Where any matter disclosed in your Register of Interests is being considered at a meeting, you must declare that you have an interest. You should also disclose the nature as well as the existence of the interest.

If you have a disclosable pecuniary interest, after having declared it at the meeting you must not participate in discussion or voting on the item and must withdraw from the meeting whilst the matter is discussed.

Members' Code of Conduct and public perception

Even if you do not have a disclosable pecuniary interest in a matter, the Members' Code of Conduct says that a member "must serve only the public interest and must never improperly confer an advantage or disadvantage on any person including yourself" and that "you must not place yourself in situations where your honesty and integrity may be questioned". What this means is that the matter of interests must be viewed within the context of the Code as a whole and regard should continue to be paid to the perception of the public.

*Disclosable pecuniary interests that must be declared are not only those of the member her or himself but also those member's spouse, civil partner or person they are living with as husband or wife or as if they were civil partners.

CODE OF PRACTICE FOR DEALING WITH PLANNING APPLICATIONS AT AREA PLANNING COMMITTEES AND PLANNING REVIEW COMMITTEE

Planning controls the development and use of land in the public interest. Applications must be determined in accordance with the Council's adopted policies, unless material planning considerations indicate otherwise. The Committee must be conducted in an orderly, fair and impartial manner.

The following minimum standards of practice will be followed.

1. All Members will have pre-read the officers' report. Members are also encouraged to view any supporting material and to visit the site if they feel that would be helpful.
2. At the meeting the Chair will draw attention to this code of practice. The Chair will also explain who is entitled to vote.
3. The sequence for each application discussed at Committee shall be as follows:-
 - (a) the Planning Officer will introduce it with a short presentation;
 - (b) any objectors may speak for up to 5 minutes in total;
 - (c) any supporters may speak for up to 5 minutes in total;
 - (d) speaking times may be extended by the Chair, provided that equal time is given to both sides. Any non-voting City Councillors and/or Parish and County Councillors who may wish to speak for or against the application will have to do so as part of the two 5-minute slots mentioned above;
 - (e) voting members of the Committee may raise questions (which shall be directed via the Chair to the lead officer presenting the application, who may pass them to other relevant Officers and/or other speakers); and
 - (f) voting members will debate and determine the application.
4. Preparation of Planning Policy documents – Public Meetings

At public meetings Councillors should be careful to be neutral and to listen to all points of view. They should take care to express themselves with respect to all present including officers. They should never say anything that could be taken to mean they have already made up their mind before an application is determined.
5. Public requests to speak

Members of the public wishing to speak must notify the Democratic Services Officer before the meeting starts giving their name, the application/agenda item they wish to speak on and whether they are objecting to or supporting the application. Notifications can be made via e-mail or telephone, to the Democratic Services Officer (whose details are on the front of the Committee agenda) or given in person before the meeting starts.
6. Written statements from the public

Members of the public and councillors can send the Democratic Services Officer written statements to circulate to committee members, and the planning officer prior to the meeting. Statements are accepted and circulated by noon, two working days before the start of the meeting. Material received from the public at the meeting will not be accepted or circulated, as Councillors are unable to view proper consideration to the new information and officers may not be able to check for accuracy or provide considered advice on any material consideration arising.
7. Exhibiting model and displays at the meeting

Applicants or members of the public can exhibit models or displays at the meeting as long as they notify the Democratic Services Officer of their intention at least 24 hours before the start of the meeting so that members can be notified.

8. Recording meetings

Members of the public and press can record the proceedings of any public meeting of the Council. If you do wish to record the meeting, please notify the Committee clerk prior to the meeting so that they can inform the Chair and direct you to the best plan to record. You are not allowed to disturb the meeting and the Chair will stop the meeting if they feel a recording is disruptive.

The Council asks those recording the meeting:

- Not to edit the recording in a way that could lead to misinterpretation of the proceedings. This includes not editing an image or views expressed in a way that may ridicule, or show a lack of respect towards those being recorded.
- To avoid recording members of the public present unless they are addressing the meeting.

For more information on recording at meetings please refer to the Council's [Protocol for Recording at Public Meetings](#)

9. Meeting Etiquette

All representations should be heard in silence and without interruption. The Chair will not permit disruptive behaviour. Members of the public are reminded that if the meeting is not allowed to proceed in an orderly manner then the Chair will withdraw the opportunity to address the Committee. The Committee is a meeting held in public, not a public meeting.

10. Members should not:

- (a) rely on considerations which are not material planning considerations in law;
- (b) question the personal integrity or professionalism of officers in public;
- (c) proceed to a vote if minded to determine an application against officer's recommendation until the reasons for that decision have been formulated; or
- (d) seek to re-design, or negotiate amendments to, an application. The Committee must determine applications as they stand and may impose appropriate conditions.

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West Area Planning Committee

5 January 2016

Application Number: 14/01441/FUL

Decision Due by: 18th September 2014

Proposal: Demolition of various structures on an application site including former garages and workshops. Erection of 23 residential units (consisting of 13 x 3 bed and 1 x 4 bed house, plus 5 x 1 bed and 4 x 2 bed flats), together with new community centre, restaurant, boatyard, public square, winding hole and public bridge across the Oxford Canal. Demolition of existing rear extension and erection of two storey extension to Vicarage at 15 St. Barnabas Street and ramped access to church entrance. (Amended plans)

Site Address: Land At Jericho Canal Side Oxford

Ward: Jericho And Osney Ward

Agent: Haworth Tompkins Ltd

Applicant: Cheer Team Corporation Ltd

Addendum Report

West Area Planning Committee on 15th February 2014 determined to approve the proposal subject to agreement of the S106 agreement and requested Officers to report back to Committee on three items:

1. Officers were asked to negotiate with the applicant to seek a reduction in the height of the chandlery to mitigate the impact of excessive overshadowing and overbearing to the gardens of 7 and 9 Coombe Road;
2. to arrange a meeting between St Barnabas Parochial Church Council and the Canal and River Trust to discuss the bridge location; and
3. Report the draft S106 agreement for Committee to approve

The original Officer's reports to Committee dated 10th January (main) and 15th February (addendum) 2015 are appended at **Appendix Ai** and **ii** respectively. Minutes of the meeting of 15th February can be found at Appendix 1.

This further Addendum report is in two sections:

Section 1 deals with:

1. Amended plans submitted in relation to the Boatyard element of the proposal and impact on No.9 Coombe Road; and

2. Update following a meeting with the Canal and River Trust and the St Barnabas Parochial Church, the JWT, the Applicant and Architect to discuss the Church's concerns regarding the location of the bridge at the southern end and allay their concerns regarding use of the new public open space.

Section 2 deals with the S106 agreement.

Summary of Overall Recommendations:

1. Officers recommend that West Area Planning Committee approve the amended plans submitted in relation to the Boatyard,
2. It is recommended that Committee considers the potential impact to trees and heritage assets arising from a second bridge at the northern end of the site and on balance agree the principle of a second bridge to the north of the site, as shown on the submitted plans, secured via the S106 but subject to a separate planning application in due course; and
3. It is recommended that Committee endorses the recommendations set out in Section 2 and instructs officers to issue a fresh draft S106 on that basis with the further instruction to report to the Chair and Vice-Chair of the Committee within four weeks of the issue of that draft as to ongoing progress.

Section 1:

Officer Assessment:

Boatyard

1. The original officer report to committee is appended at Appendix A and paragraph 54 refers.
2. Following committee, the applicant met with Officers, The JWT and Boaters to discuss the impact of the new boat yard on No. 9 Combe Road and in relation to the requirements of the boat yard element itself.
3. Subsequently the architects submitted amended plans which show a reduced height of the building to the rear adjacent to No. 9 Combe Road.
4. The height of the building is reduced from approximately 4m high to 3m (1m) to the rear boundary with No.9 with a cat slide roof. It has a box dormer window in it to allow the internal staircase enough headroom up to the first floor. The JWT and boaters still consider the uses within the boatyard critical to its success (chandlery/ overnight stay accommodation/ laundry) and this proposal would still allow them to retain the uses, albeit smaller in size.
5. It is considered that the amended plans would reduce the overbearing impact of the building to No.9 Combe Road. Offices therefore recommend that the amended plans be accepted and approved by committee.

The Bridge and the Public Open Space

6. The Committee's direction for Officer's to meet with the Canal and River Trust (CRT) and the Parochial Church (PC) to discuss the location of the bridge at the southern end came about from their letter of comment. In broad terms this stated that they would be supportive of the proposed development if their concerns regarding the location of the bridge at the southern end of the site could be allayed. They believe that without a bridge directly crossing over to the public open space (POS), that this space would become unused and desolate.
7. A meeting was held between the PC, CRT, JWT, Applicant, Architects, and Officers to discuss why the bridge was located to the south, and issues surrounding why an at grade bridge could not be located to the POS. The Architects offered solutions to aid wayfinding into the site from the bridge, including hard landscaping treatment, elevational treatment of the restaurant on the corner of the POS and suggestions as to how advertising could also assist. However, the PC was not convinced and remained steadfast in its view that the bridge needed to be located at the northern end to the POS, and furthermore stated it would not agree to its land being included in this space and therefore the development.
8. In response, the Applicant has proposed to construct a second simpler steel and timber fixed bridge to the POS, in addition to the at grade bridge, as shown on the plan at **Appendix B**. The Applicant would construct and maintain this bridge and it would land on land currently wholly owned by the CRT. Further consultation has resulted between all parties. The CRT stipulated that the bridge would have to oversail the towpath to ensure all canal users (e.g. horse drawn boats) could use it, as shown, and has confirmed that the principle is acceptable in the location shown. The Church has also confirmed that they are very happy with a second bridge solution in the location shown and this now alleviates their earlier concerns and fears regarding the proposed development. The JWT were also consulted on this proposal and have also confirmed they are supportive of a second bridge.
9. The proposal of this second bridge would be the subject of a further planning application, necessitated by the fact it would land outside the current application boundary. In order to ensure its delivery, it is proposed that a restrictive occupancy clause be included within the S106, which means that the private housing could not be occupied until it is constructed. The S106 would also deal with future maintenance which would be as for the POS. Section 2 of this Addendum deals with this matter further.
10. Whilst acceptable in principle to the CRT and supported by the Church, the position of a second bridge in this location would have an impact on the trees in this strip of land between the canal and the Castle Mill Stream and the character and appearance of the CA. At this stage it is only the location that is being considered, and detailed design and positioning would be considered under the new application. However, the Applicant has submitted an Arboricultural report

and method statement specifically in relation to this in order to access the likely impact.

11. The second bridge would require the removal of two trees, a field maple T26, and cherry tree T30. The cherry is in very poor condition (BS5837:2012 U category) and the field maple is a relatively small tree that is not significant within the tree belt between the canal and Castle Mill Stream. It is proposed to plant 3 no. field maple and 1 no. alder to mitigate their loss so that public amenity in the area will not be significantly harmed by these losses.
12. However, the proposals also require the foundations of the second bridge to be constructed within the Root Protection Areas (RPA as defined by BS5837:2012) of several retained trees of greater significance; these are 5 no. field maples T27, T28, T31, T32 and T33. 4 of these field maple trees will also need to be pruned to lift their crowns to 6 metres above ground level to provide adequate head clearance for the bridge.
13. A RPA is the minimum rooting area that BS5837:2012 recommends should be protected around a tree to ensure it remains viable. RPAs should usually be protected as Construction Exclusion Zones (CEZs) to avoid damage to roots that are likely to be important to the continued health and safety of the trees. Consequently there is a high risk that the trees will be damaged during construction of the bridge.
14. To minimise the impact of the bridge on retained trees the project arboriculturalist has recommended that the foundations of the bridge uses a piling system. Tree protection measures and working procedures which are appropriate to minimise root damage as far as possible are recommended within an Arboricultural Method Statement. Decompaction of soil within the RPAs of retained tree is recommended following construction to further mitigate potentially harmful impacts.
15. However, the Tree Officer remains concerned that there remains a significant risk that the retained trees will be damaged during construction of the bridge and that this might affect their future viability; for example, if large diameter woody roots are encountered within the construction area and have to be cut trees might have to be removed for safety during construction. However, additional new trees could be planted, subject to the agreement of the land owner (CRT), between the bridge and Castle Mill Stream if it becomes necessary to remove any of the trees currently shown as retained and this would help to mitigate the local impacts. This would be for the Applicant to agree with the CRT in advance of any application for the bridge.
16. This is a sensitive area and given their importance to the appearance and character of the Jericho Conservation Area and the function they perform in screening Jericho from the railway to the west, the significance of the belt of trees which grow between the canal and Castle Mill Stream is much greater than the low quality and value (BS 5837:2012 C category) categorisation of individual trees in the arboricultural report would suggest. The recent tree works along the railway line in connection with the current railway works has already changed the

far side of the Castle Mill Stream and altered views to and out of the site, although new trees have been planted.

17. It is acknowledged that the risk of loss of more trees, whilst individually not significant, as a group may be more significant and as a result adversely impact on the tree belt in the towpath corridor between the Castle Mill Stream and the Canal. This in turn may also be viewed as having an adverse impact on the Conservation Area at this point resulting from a gap in the tree belt. However, it is considered that, whilst the risk is that there would an adverse impact, the wider benefits to the public from the overall development, and that of the additional bridge itself, could be considered to outweigh that potential impact. Furthermore, should the CRT be agreeable, suitable conditions attached to any future planning approval of the bridge could secure additional mitigating tree planting and mitigation measures to minimise risk during construction.
18. In terms of impact of the setting of the listed St Barnabas Church and the Canal itself, it is considered that a simpler steel and wooden bridge fixed bridge would not be harmful to their setting or character and appearance, subject to a suitable design. Officers raise no objection in respect of this issue.
19. It is therefore recommended that Committee should consider the potential impact on the trees along the corridor and the Conservation Area, and weigh in the balance potential harm and the benefits of the development as a whole. On balance Officers recommended that Committee agree the principle of a second fixed bridge in the northern location (as shown in Appendix B) and that it be incorporated into the S106 accordingly requiring a new detailed planning application and restricting occupancy of the private housing until such time as it is constructed, and securing maintenance thereafter.

Section 2: Planning Obligations Update Report

20. The 15 February meeting of West Area Planning Committee requested a further report to agree the full completed legal agreement. The relevant minute is at Appendix 1
21. The issued draft is at Appendix 2. It follows the Local Planning Authority's Affordable Housing and Planning Obligations Supplementary Planning Document adopted on 11 September 2013. The Jericho Wharf Trust (JWT) provided an annotated copy raising a number of issues (Appendix 3). The Applicant provided a suite of documents including a tracked changes version of the issue draft (Appendix 4-1) with the remaining document supplied on behalf of the Applicant being at Appendices 4-1 to 4-7).
22. The JWT subsequently commented upon the material provided by the Applicant (Appendix 5).
23. There have been extensive ongoing discussions between the Applicant and various other bodies including the JWT, the Canal and River Trust (CRT) and the Parochial Church Council. The Applicant's view as to the outcome of those

discussions is at Appendix 6. The latest communication (concerning bridge provision) is from the Applicant and at Appendix 7.

24. The Draft and Issues Raised

25. The following addresses the comments of the Applicant and the JWT upon the issued draft. It takes the JWT points (and the Applicant's where they overlap) first and then the Applicant's points. Reference to making changes are to making changes from the draft issued by the Local Planning Authority.
26. Parties – The JWT has queried whether it (and CRT) should be parties. The basic structure of the draft is to prevent development and/or occupation of the beneficial development on the Applicant's land until a variety of works, not all of which are under the Applicant's control, are provided. Details of what is to be provided, when it is to be provided by reference to the beneficial development, and subsequent maintenance are required with enforcement via the beneficial development. The example advanced by JWT (the canal works at schedule 3 paragraph 6) follows that model. Including other parties and seeking to impose positive obligations of the land of those other parties is not necessary and would be likely to complicate the matter. It could also commit the Applicant's to reaching an agreement with a party which might not be necessary to deliver the planning obligations. No change is recommended to the approach.
27. Draft Planning Permission – JWT suggests it be attached and the Applicant's amendments provide for that and for the (majority of) the deed creating planning obligations to be conditional upon that. Again it is unnecessary and can create problems. Any difference from the draft permission attached and that issued could give rise to arguments as to whether or not the planning obligations could ever be enforced. It also complicates matters should there be a subsequent application to develop subject to different planning conditions. This provision would require either a new agreement or a variation which might otherwise not be required. It is not necessary as the obligations are subject to their own triggers by reference to the carrying out of the development. Again the canal works at schedule 3 paragraph 6 are a good example. No change is recommended to the approach.
28. Indexation of the £150,000 to be paid to the purchaser of the Community Centre Land – this is sought by JWT. The purpose of indexation is to ensure that a figure calculated by reference to an actual cost at a particular date remains valid at some future date when the actual payment is made. As this payment does not appear to be such a payment (and there was nothing in the Applicant's offer to suggest it) no change is recommended. N.B. The note at Appendix 6 states that the Applicant is prepared to make that payment at the date of execution of the planning agreement. That would require a change at schedule 3 paragraph 8.4.8 (deletion and separate up front requirement to make the payment subject to the obligation to use it only for the development of the Community Centre Development). There is obvious scope for further disagreement between the Applicant and JWT as to the terms of that use description (and presumably the circumstances in which refund might be required). There is also the need, from the perspective of the Local Planning Authority, to ensure that the £150 000 goes

with the land – i.e. what happens if the land does not end up with JWT. It is recommended that the original approach be retained but modified such that the requirement to pay the £150,000 falls away if the money has been paid and the transfer is to JWT.

29. Land to be bound by the obligations (schedule 1) – The first JWT point is perfectly valid (title had not been seen at the time the draft was issued) and has been addressed by the Applicant. The second JWT point is a replication of the “Parties” point.
30. The Restaurant (schedule 3 paragraph 2) – JWT query the location and the Applicant seeks deletion. The location is to be identified on a plan to be annexed. The requirement was an explicit imposition of WAPC. N.B. The requirement should have been explicitly applicable only after the commencement of development. Subject to that, no change is recommended.
31. The Bridge(s) (schedule 3 paragraph 4) – JWT (quite correctly highlight the issue of deliverability). The Applicant seeks amendments allowing for a different type of bridge in a different location. As the recent communications make clear, the bridge provision has evolved since the previous WAPC meeting and, subject to committee’s satisfaction as to the current proposals it is recommended that the draft be amended to reflect that.
32. Public Open Space (schedule 3 paragraph 5) – The points JWT raise are, in substance, again the “Parties” point. The Applicant sought some minor alterations which are not considered to be necessary. N.B. Requirements upon the Local Planning Authority to act “reasonably” are intrinsically unnecessary and if imposed as sought would prejudice enforceability as they invite disagreements as to what is and is not reasonable and would be determined ultimately by a body which is not a “competent planning authority”. No change is recommended.
33. Canal Works (schedule 3 paragraph 6) – The JWT point is again the “Parties” point. The Applicant seeks deletion of its ongoing maintenance and protection arrangements. This is presumably a land control issue. It is recommended that the ongoing obligation be retained but amended to explicitly allow for the Applicant to procure that ongoing maintenance and protection.
34. Community Centre / Boatyard (schedule 3 paragraph 8) – It appears that the Applicant has agreed to freehold transfer save where to avoid a flying freehold where a 999 year lease is suggested. That appears unobjectionable as long as the issues raised by JWT (Appendix 5) are addressed. Similarly a 12 month window for accepting the land appears to be agreed between the Applicant and JWT. There seems to confusion as to whether or not the Council requires the building of the boatyard. The eighth City Council planning obligation requirement does require it. A specific obligation enforceable by the Local Planning Authority should be added. It is recommended that schedule 3 paragraph 8 be amended to reflect these. It is not recommended that transfer and lease documentation be appended. This is not necessary from the perspective of the Local Planning Authority and could rise to the “Parties” issues.

35. The remaining issues are those raised by the Applicant.
36. Form generally – The Applicant has sought to change the form of the draft. The draft issued accords with the SPD (which includes a model and, in the absence of any demonstration why that form is defective no change in form is recommended.
37. Definitions – There is nothing to add to the above.
38. Construction of this Agreement – Again this is essentially a form point and no change from the Local Planning Authority’s usual form is recommended.
39. Statutory Authority – As above. No change is recommended.
40. Conditionality – As the obligations are drafted by reference to the development (again see schedule 3 paragraph 6 as an example) this is not necessary. The comments as to annexing a draft of the planning permission apply here. Inclusion also generates concerns as to which provisions would be excluded and take immediate effect. No change is recommended.
41. Owner’s Obligations – Pure form. No change is recommended.
42. The City Council’s Covenants – This relates to a requirement that the Applicant wishes to impose upon the Local Planning Authority to give confirmation of planning obligation compliance. Developers are perfectly capable of keeping their own records and no change is recommended.
43. Miscellaneous – These so far as they are new provisions rather than rearranged provisions from the Local Planning Authority’s draft, are “boiler plating” provisions that many developers will seek regardless of the particular circumstances. The Local Planning Authority decided which such provisions should be included in the context of its SPD and, in the absence of reasoning to include different provisions, would not normally depart from the SPD,
44. The local land charge provisions should not be there as s106 itself requires registration and does not provide for cancellation. It is not possible to contract either in or out.
45. The “reasonableness” provision has already been addressed.
46. The quashing, revoking &c provision could result in the 106 ceasing to apply if the planning permission was modified by the removal of one square metre of site area.
47. The “expiry” point doesn’t work as the Applicant is seeking an amended definition of Commencement of Development such that the permission can be implemented (and kept capable of completion indefinitely) without Commencement of Development as defined in the Applicant’s amendments to the planning obligations.

48. Planning obligations are enforceable against the original person entering into the obligations and their successors in title to the land. Ordinarily the Local Planning Authority would not accept the release that the Applicant seeks on disposal of the land without some particular justification. None has been provided and this is precisely the type of development where such a release would be particularly difficult to justify.
49. Exemptions for dwellings prejudice the enforceability of the planning obligations especially where dwellings are the significant part of the development value. Obviously they are incompatible with ongoing obligations upon dwellings such as the affordable housing requirements.
50. Automatic provision for the planning obligations to be overridden by a subsequent grant of permission can give rise to unexpected consequences. For example a s73 permission under the Applicant's drafting would cause all of the planning obligations to fail. It is far preferable for any required change to planning obligations to be positively considered in the context of the grant of a subsequent planning permission
51. Accordingly no change is recommended.
52. The same comments apply to the other changes sought prior to the schedules. The only issue on which further comment is made is the general dispute resolution clause. The Local Planning Authority would normally only accept such a provision if specifically justified and would not easily surrender its role as local planning authority to a third party. In this instance there has been no justification. No change is recommended.
53. Affordable Housing (schedule 2) – The Local Planning Authority's draft followed the SPD. It is therefore recommended that no changes be made either in form or concerning the additional exemptions sought the effect of which is to lose affordable housing stock.
54. Overall Recommendation
55. It is recommended that Committee endorses the recommendations set out above and instructs officers to issue a fresh draft on that basis with the further instruction to report to the Chair and Vice-Chair of the Committee within four weeks of the issue of that draft as to ongoing progress.

Contact Officer Section 1: Felicity Byrne
Contact Officer Section 2: Michael Morgan

Date: 23rd December 2015

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West Area Planning Committee

13th January 2015

Application Number: 14/01441/FUL**Decision Due by:** 18th September 2014

Proposal: Demolition of various structures on an application site including former garages and workshops. Erection of 23 residential units (consisting of 13 x 3 bed and 1 x 4 bed house, plus 5 x 1 bed and 4 x 2 bed flats), together with new community centre, restaurant, boatyard, public square, winding hole and public bridge across the Oxford Canal. Demolition of existing rear extension and erection of two storey extension to Vicarage at 15 St. Barnabas Street and ramped access to church entrance. (Amended plans, Amended description)

Site Address: Land At Jericho Canal Side, Site Plan **Appendix 1****Ward:** Jericho And Osney**Agent:** Haworth Tompkins Ltd**Applicant:** Cheer Team Corporation Ltd

Recommendation: West Area Planning Committee is recommended to support the proposal in principle subject to and including conditions listed below, and subject to the Environment Agency removing their objection, and delegate to Officers to issue the decision notice on completion of an accompanying legal agreement. If a legal agreement is not completed and/ or the Environment Agency objection is not overcome through the revised FRA, then committee is recommended to delegate Officers to refuse the planning application.

Reasons for Approval

1. It is considered that the proposed development makes best and most efficient use of the land, whilst achieving the essentials of the Development Brief and requirements set out the Site Designation Policy SP7, in delivering a high quality development on a constrained site. Whilst the development provides less than 50% affordable housing, given the viability assessment made and 39% social rent units proposed, in addition to a general compliance with BODs, the provision of a much needed high quality Community Centre and boatyard building, improved winding hole, level DDA bridge, together with a new public open space and restaurant, and taking into account all other material considerations an exception to the 50% requirement can be accepted in this case. Car free residential accommodation is acceptable in this sustainable location and adequate cycle parking is provided. In addition some elements of the development may significantly impact upon residential

amenities on adjacent dwellings; however it is considered that other materials considerations in terms of the public benefit of the proposals outweigh this impact in this case. On balance therefore the proposal is considered to accord with the requirements of relevant policies in the Oxford Local Plan, Sites and Housing Plan, Core Strategy and the NPPF.

2. The City Council has given considerable weight and importance to the desirability of preserving or enhancing designated heritage assets and their settings, including the listed building(s) and/or conservation area. The new development may cause harm to the setting of the Grade I listed Church however, it is considered that this is less than significant harm and in any event is outweighed and justified by the substantial public benefits of providing the affordable housing, community facility, boatyard, public open space and new bridge. The development would not be harmful to the character and appearance of the conservation area, canal and other non-designated heritage assets, but any harm is justified by the substantial public benefits of the development. The proposal is considered to accord with the requirements of relevant policies in the Oxford Local Plan, Sites and Housing Plan, Core Strategy and the NPPF.
3. The Council has considered the comments raised in public consultation but consider that they do not constitute sustainable reasons sufficient to refuse planning permission and that the imposition of appropriate planning conditions will ensure a good quality form of development that will enhance the appearance of the street scene and relate satisfactorily to nearby buildings, preserve the special character and appearance of the area.

Conditions

- Time – outline / reserved matters.
- Plans – in accordance with approved plans.
- Materials – samples agree prior to construction.
- Contamination, phased risk assessment – prior to construction.
- Strategy for control of dust and dirt from demolition and construction; prior to demolition.
- Drainage Strategy & SUDS Strategy– Implement in accordance with DS & SUDS S. Further SUDs details required.
- Biodiversity - 6 integrated bat roosting devices.
- Biodiversity - A lighting scheme designed to minimise disturbance to foraging bats .
- Biodiversity - Vegetation clearance will only take place outside of the bird nesting season or following an inspection from a suitably qualified ecologist and under guidance arising from that inspection.
- Archaeology – Watching Brief - Prior to demolition/ Construction.
- Public open Space; no parking; access only except in exceptional circumstances (e.g. deliveries, emergency services/ in conjunction with events)
- Public Open Space; details of hard surfacing/ bollards/ street furniture.
- Public Open Space –Use and management Strategy – prior to completion
- Parking -Residents exclude from CPZ.

- Parking layout in accordance with plan; for Church and disabled use only.
- Deliveries Strategy for Community Centre/ Nursery/ Boatyard and Restaurant.
- Construction Traffic Management Plan – details prior to construction.
- Restaurant – Restrict opening hours: 09:00hrs to 22:30hrs mon-fri; 09:00hrs to 23:00hrs Saturday only; 09:00hrs to 22:00hrs Sundays.
- Cycle & bin storage – further details.
- Windows – obscure glazing, as on approved plans; at all times
- PD rights removed – houses
- NRIA – build in accordance with; provide further details of PV's (size, location), CHP prior to that phase of construction of development.
- Details of boundary treatment prior to occupation inc. pre-school railings.
- Vicarage – construct rear extension prior to restaurant /flats
- Vicarage – rear extension: first floor bathroom window obs glazed, revised details of sitting room window to avoid overlooking
- landscape plan – details required prior to substantial completion
- landscape carried out
- landscape Management Plan
- Trees- hard surfaces –tree roots
- Trees -underground services –tree roots
- Trees - tree protection plan Prior Demolition
- Trees -Arboricultural Method statement – to include details of the suspended, cantilevered floor slab for the house at the southern end of the site which is required to ensure that roots of trees that stand adjacent to the site within the ground of Worcester College are not damaged during construction.
- Noise- details of air conditioning,
- Noise- mechanical ventilation or associated plant,
- Noise- restriction on noise in relation to neighbouring residential properties
- Noise- details of a scheme for treating cooking odours
- Noise - details of a management plan for the boatyard including how noise from operational procedures will be mitigated in practice.
- Flooding conditions (TBC subject to EA response)
- Heritage - programme of architectural recording of the buildings and structures on the site by measurement, drawing and photography before work commences.
- Heritage -architectural features and structures exposed by demolition and/or during the progress of the works shall be preserved in situ or relocated in accordance with submitted details, prior to demolition
- Heritage- a written scheme of investigation, details of architectural salvage prior to demolition.
- Heritage - details of a scheme for protection of heritage assets during demolition and construction (hoarding etc) prior to demolition

Legal Agreement:

S106 Heads of Terms:

City:

- Affordable Housing: 39% all social rent (9 flats);
- Bridge & maintenance: Exact figures to be confirmed. Bridge fully automated with a call out mechanism in the event of mechanical failure, in conjunction

with CRT as Landowner;

- Canal works (bank and winding hole (and boatyard docks)) in conjunction with CRT;
- Public open space works and maintenance: by Applicant;
- Moorings: Replacement moorings will need to be created on the canal bank to the north of the Mount Place Bridge on the Western bank as a result of the new bridge, at Applicant's expense (which has been agreed);
- Dog bin and Sign: Contribution towards provision of dog litter bins and an information board at the Walton Well Road entrance to Port Meadow in order to comply with the Habitat Regulations and to mitigate the impact of the development. Applicant agreed, sum to be confirmed (indicative £1000);

County:

- Monitoring fees of £1240 for the Framework Travel Plan - other elements of the scheme may trigger additional fees if they are large enough to require individual travel plans;
- £1,000 for a new pole/flag/information case unit at the Canal Street Bus Stop (if required to be relocated);
- £5,000 to amend the existing Traffic Regulation Order (TRO) - to include changes to existing short stay parking bays in the area and the exclusion of the residential dwellings from parking permit eligibility.

CIL requirements.

The CIL contribution will be £272,978.79.

Principal Planning Policies:

Oxford Local Plan 2001-2016 (OLP)

CP1 - Development Proposals
CP6 - Efficient Use of Land & Density
CP8 - Design Development to Relate to its Context
CP9 - Creating Successful New Places
CP10 - Siting Development to Meet Functional Needs
CP14 - Public Art
CP17 - Recycled Materials
CP18 - Natural Resource Impact Analysis
CP19 - Nuisance
CP20 - Lighting
CP22 - Contaminated Land
TR1 - Transport Assessment
TR3 - Car Parking Standards
TR4 - Pedestrian & Cycle Facilities
TR5 - Pedestrian & Cycle Routes
TR13 - Controlled Parking Zones
NE6 - Oxford's Watercourses
NE11 - Land Drainage & River Engineering Works
NE12 - Groundwater Flow

NE13 - Water Quality
NE14 - Water and Sewerage Infrastructure
NE15 - Loss of Trees and Hedgerows
NE16 - Protected Trees
NE20 - Wildlife Corridors
NE23 - Habitat Creation in New Developments
NE21 - Species Protection
HE2 - Archaeology
HE3 - Listed Buildings and Their Setting
HE7 - Conservation Areas
SR9 - Footpaths & Bridleways
SR16 - Proposed New Community Facilities
RC12 - Food & Drinks Outlets

Core Strategy (CS)

CS2_ - Previously developed and greenfield land
CS9_ - Energy and natural resources
CS10_ - Waste and recycling
CS11_ - Flooding
CS12_ - Biodiversity
CS13_ - Supporting access to new development
CS14_ - Supporting city-wide movement
CS17_ - Infrastructure and developer contributions
CS18_ - Urban design, town character, historic environment
CS19_ - Community safety
CS20_ - Cultural and community development
CS22_ - Level of housing growth
CS23_ - Mix of housing
CS24_ - Affordable housing
CS28_ - Employment sites

Sites and Housing Plan (SHP)

MP1 - Model Policy
HP2_ - Accessible and Adaptable Homes
HP3_ - Affordable Homes from Large Housing Sites
HP9_ - Design, Character and Context
HP11_ - Low Carbon Homes
HP12_ - Indoor Space
HP13_ - Outdoor Space
HP14_ - Privacy and Daylight
HP15_ - Residential cycle parking
HP16_ - Residential car parking
SP7_ - Canalside Land, Jericho

Other Planning Documents

- National Planning Policy Framework & supporting National Planning Guidance

- Affordable Housing and Planning Obligations SPD (Sep 2013)
- Jericho Canalside SPD (2013)
- Balance of Dwellings SPD (2008)
- Natural Resource Impact Analysis (2006)
- Parking Standards, Transport Assessment and Travel Plans Supplementary Planning Document (2007)

Public Consultation

Statutory and public consultation responses are summarised at **Appendix 2**

Pre application consultation:

A Statement of Community Involvement has been submitted as part of the application within the Design and Access Statement. The Applicant undertook extensive consultation in the 6months leading up to submission of the application.

The proposals have been developed following consultation with Jericho Warf Trust (JWT) which is made up of the Jericho Living Heritage Trust (JLHT), the Jericho Community Association (JCA) and the Jericho Canal Boat Yard (JCBY), local residents, Thames Valley Police (CPDA), Oxford Design Review Panel (ODRP), Canal and River Trust, Environment Agency, local community and amenity groups and other stakeholders. The SCI sets out how these groups have been engaged and involved with the design process.

The consultation recorded here has taken place over a relatively short period (since October 2013). For many schemes of this complexity this would not be sufficient to properly understand local and stakeholder opinion. In this instance however, the Architects have the benefit of work carried out by the architect in 2010-11 (when working for the Jericho Living Heritage Trust), by the Jericho Community Association, the Jericho Canal Boat Yard and City Development in developing the Jericho Canalside Supplementary Planning Document (JC SPD). This extended period of work, instigated by local residents themselves, has directly led to the creation of the SPD and has therefore had a direct influence on the form and nature of the proposals illustrated here.

Public Consultation Event:

7-8 February 2014, St. Barnabas Church and Jericho Community Centre. The event was very well attended with approximately 400 visitors over the two days. The majority of visitors were local residents, but a number of stakeholders attended including OCC Councillors, Inland Waterways Association, OUP, Oxford Civic Society, Cyclox, and College Cruisers.

Of the 112 written comments left by visitors:

- 74 were broadly or very positive
- 10 were broadly or very negative
- 28 were neutral

The Architects considered that a positive response of 66% showed strong support for the proposals.

Oxford Design Review Panel:

10 February 2014, Oxford Town Hall

The response from the panel was favourable. It acknowledged that the design was incomplete and that further design would be necessary prior to the planning application being submitted. The comments are summarized below. As with the public consultation most of the comments related to the housing.

- The panel acknowledged the importance of the boatyard to the scheme and recommended that the infrastructure be delivered as early as possible
- Questions were raised over the viability of the community centre and the community's ability to deliver a large and complex building.
- The panel questioned the scale of the community centre above the boatyard and whether the pre-school and café were in the ideal location.
- The calm nature of the terraced housing was welcomed, but it was acknowledged that further work was required in developing the detailed design. The panel raised issues of overlooking and privacy from the rear of the terrace.
- Aspects of the restaurant building and northern house were questioned and it was suggested that 'a more muscular statement' be made in this area.
- It was felt that the public square had the potential to be 'one of the most important in the city'.

In response to comments received at the public consultation and by the design review panel, the design was developed and modified in a number of ways. As many of the comments related to the housing element of the scheme, most of the changes relate to the southern section of the site. Terraced houses were modified by reducing their overall height and significantly reducing the ridge height, pairing chimneys and front doors to create a slower rhythm along the elevation, removal of dormer windows to the rear and more appropriate brick colour and detailing proposed. Angled oriel windows with obscured glazing were added to the rear elevation to ensure privacy of neighbours.

In addition, the restaurant block was made narrower and a subtle angle introduced on the north-west corner of the block to increase views of the church from the towpath and to help improve the relationship between the restaurant block and northern house.

Waste and bicycle storage was also given greater thought following the consultation exercise. A rear alley was added to the back of the terraced house gardens to provide a means of access to the garden for bikes and for the removal of refuse to two centralized bin stores.

The material treatment of the community centre was also reviewed and changes were made to the façade including a lightening of timber colour along Dawson Place and a change in proportion to the café entrance to make it more prominent on the façade.

Officers Assessment:

Background to Proposals.

Site description:

1. This irregular shaped 0.45 hectare brownfield site is within the historic suburb of Jericho, Oxford and incorporates land within separate ownerships. It is bounded to the west by the Oxford Canal and surrounded on all other sides by residential development, including student accommodation to the immediate south and the gardens of Worcester College. The Grade 1 listed St. Barnabas Church sits against the eastern boundary to the site, in the midst of the surrounding development and forms an important backdrop to the site. It is a former boatyard and workshop site and has been vacant and derelict since 2006. To the north of the site is an area used by College Cruisers as a boat hire facility and informal parking. The garages and open space occupy the land in Dawson Place and are in the City Council's ownership. There are a few individual trees within and adjacent to the site with more substantial tree coverage along the Canal towpath and in Worcester College Gardens.
2. The site is located approximately 1km to the north of the City Centre, and benefits from good accessibility to the City Centre and Railway Station, particularly on foot or by bicycle. Furthermore, it is located within close proximity of neighbourhood shops along Walton Street with a range of shops, restaurants, and medical facilities and also the new University re-development of the Radcliffe Observatory Quarter (ROQ).
3. Of relevance to the development of this site are the following previous applications:
 - 03/01266/FUL - Bellway Homes application for 46 dwellings, 37 car parking spaces, restaurant, chandlery, public square, winding hole and new footbridge. Refused 12th May 2004 and dismissed at appeal in 2005 due to Inadequate space provided for the community centre; No provision for replacement boat facilities in another equally accessible and convenient location (absence of lifting facilities not a reason for refusal in itself)
 - 07/01234/FUL - Spring Residential Ltd application for 54 flats, 16 car parking spaces, winding hole, public square, lifting bridge and boat repair berth; and 07/01973/FUL - Spring Residential Ltd application for landscaping works to St Barnabas Church. Both were refused on 9th January 2008 and both dismissed at appeal by the Inspector for the following reasons:
 - The re-provision of support services for boat users in an equally accessible and suitable location will not be fulfilled
 - The water related land use element will be relegated to a small discreet part of the site which is unfortunate in this area where canal and boating are important elements of its character
 - The preponderance of residential around the edges of the public square would render it sterile and inactive, lacking a sense of distinctive place with little connection to the character or history of Jericho
 - The design fails to take the opportunities for improving the character and quality of this area

- 09/01203/OUT – Jericho Community Association application for outline application for new community centre with entrance from Dawson Place seeking approval of access and layout. Approved 16th June 2010 and expires 16th June 2015. Reserved matters are scale, appearance and landscaping.
4. Following these applications a revised development brief was drawn up in the form of the Jericho Canalside Supplementary Planning Document (JC SPD) (which replaced the Canalside Land Development Guidelines (2001)) and which was as a result of extensive public consultation with landowners, residents and interested parties.

Proposed Development:

5. It is proposed to demolitsh various structures on the application site including former garages and workshops and erect 22 residential units (consisting of 13 x 3 bed and 1 x 4 bed house, plus 5 x 1 bed and 4 x 2 bed flats), together with new community centre & boatyard, restaurant, public square, winding hole and public bridge across the Oxford Canal. In addition, it is proposed to demolish an existing rear extension and erect a new two storey rear extension to the Vicarage at 15 St. Barnabas Street and demolish churchyard walls and provide a ramped access to church entrance. The development was amended during the course of application in response to Officer and public consultation comments. The main changes to the scheme are:
- The massing of the community centre reduced; from a single pitch to three pitched roofs;
 - The corner of the restaurant block changed from chamfered to square;
 - Roof terraces around the vicarage designed to prevent overlooking;
 - Rear of three terraced houses moved back from St Barnabus St;
 - The position of the bridge has been moved to the south; and
 - Conversion of the 2 bed house extension adjacent to the Vicarage to 2 1xbed flats in order to provide more units of affordable housing.

Determining Issues:

6. Officers consider the principal determining issues to be:
- Planning Policy;
 - Urban Design and appearance;
 - Heritage Assets;
 - Bridge & Footpath Links;
 - Community Centre and Boatyard;
 - Winding Hole and canal works;
 - Residential;
 - Public Open Space;
 - Restaurant;
 - Car and Cycle Parking;
 - Landscaping;

- Contamination;
- Flood Risk;
- Drainage;
- Archaeology;
- Biodiversity & Habitat Regulations;
- Sustainability;
- Noise; and
- Public Art.

Planning Policy:

7. The Sites and Housing Plan includes Policy MP1 which reflects the National Planning Policy Framework's presumption in favour of sustainable development. The NPPF contains a set of core land-use planning principles which should underpin decision-making. The elements of these core principles that are particularly relevant to this relate to good quality design and the conservation and enhancement of the historic environment.
8. The NPPF states that it is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes. Development should add to the overall quality of the area; establish a strong sense of place creating attractive and comfortable places to live, work and visit; optimise the potential of the site to accommodate development; respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation; create safe and accessible environments; and are visually attractive as a result of good architecture and appropriate landscaping.
9. In relation to the historic environment NPPF aspires for positive strategies for the conservation and enjoyment of the historic environment that will sustain and enhance the significance of heritage assets; recognise the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring; make a positive contribution to local character and distinctiveness; and take opportunities to draw on the contribution made by the historic environment to the character of a place.
10. The key Policy relating to the site is SP7 of the Site and Housing Plan which designates the site for mix used including:
 - Residential
 - A sustainably-sized community centre
 - Public open space/square
 - Replacement appropriately sized boatyard
 - An improved crossing over the canal for pedestrians and cyclists
11. The supporting text also clarifies these uses and context, including the setting of the listed Church and waterfront heritage, facilities within the boatyard, maximum building heights and provision of dog & litter bins and signage for

Oxford Meadows Special Area of Conservation (SAC).

12. The Jericho Canalside Supplementary Planning Document (2013) (JC SPD) is also a key policy document for the site, which elaborates on the requirements of SP7 and provides a detailed design brief for the site.
13. The proposed development provides a community centre, boatyard, winding hole, residential, and bridge across the canal and therefore in basic terms and subject to other policy considerations set out below, accords with Policy SP7 and the principles for development within the JC SPD.

Urban design and Appearance:

14. The JC SPD sets out urban design principles for the development of the site including respecting the character and appearance of the Grade 1 listed St Barnabus Church and the canalside, and integrating into Jericho's historic streets. It states that, "new development will need to maintain an open frontage to the canal that preserves its character as an active, publicly accessible space, where the heritage of the waterway can be appreciated..... Buildings facing onto the canal should be designed using a scale, form, materials and detailing that make references to historic canalside structures and should be of exemplar architectural quality. This does not mean that buildings should provide a pastiche of historic canalside buildings, however the influence of precedents on the architecture should be evident and understandable New development along the canalside should include a variation of heights and divisions into larger units".
15. The SPD states that the majority of the existing buildings in the area are 2 storeys, and although a maximum of 3 storeys is set within Policy SP7, it does not automatically follow that this is acceptable across the entire site. It goes on to say therefore that 3 storey buildings should be an exception and be of exceptional quality and should not have a negative impact on the character of the area.
16. The Architects, Hayworth Tompkins, have a history of involvement with the site, including working with the Jericho Living Heritage Trust/ Jericho Wharf Trust and contributing to the drawing up to the JC SPD. The proposed scheme is based on the Framework Option 2 plan set out in the JC SPD. The site layout (**Appendix 3**) shows the community centre and boatyard as a combined building, to the north of the site, adjacent to the properties on Coombe Road and College Cruisers. This is a large scale commercial building reaching approximately 11.1m high which is approximately equivalent to 3 domestic storeys and sits just below the eaves of the Church's main roof adjacent (11.5m). In front of this Community Centre and Boatyard Building is a new public open square, which incorporates part of the Church land, together with a new winding hole and entrance to the boatyard docks. To the south is a building combining restaurant and flats reaching 3 stories in height (12.5m high). Attached to it is two storey unit, which is also adjoined to the existing Vicarage and appears as an additional house within the street scene (providing 2 1xbed flats). The restaurant/ flat building wraps around the

corner facing onto the canal in the form of 13 terraced houses which are two storey with rooms with in the roof. One is for a disabled occupier. To the south of the site is a single narrow 4 bed house, built right up the canal edge. It is three storeys to the front and two storeys to the rear with a raised garden space in between at first floor level.

17. In urban design terms Officers consider that the scale and form of buildings are of an appropriate scale and massing in relation to existing buildings. The buildings have a good relationship to one another and the public open space responds well to the new winding hole and canal and listed church. The buildings are well designed with active frontages, taller corner buildings which turn corners and good overall surveillance from windows and balconies. The building heights are generally within the overall built form of domestic properties nearby with the community centre/ boatyard and restaurant and flat buildings higher at 3 storeys, the latter at the same height as the existing community centre on St Barnabus St (12.5m high). The development would sit well within the context of surrounding streets when viewed from Canal Street, Cardigan Street and Great Clarendon Street.
18. The community centre/ boatyard and restaurant/ flat building provide a frame for views to the western elevation of the Church when viewed from the canal and towpath. The massing of this building in relation to the public open space and Church has been adjusted during the course of the application as a result of Officers concerns. The overall ridge height and shape of the roof has been altered from a single roof to a tri-pitched roof which is brought through to the front façade so as to appear as three smaller units. This better reflects the proportions of the church and other traditional canalside type buildings.
19. Whilst the Community centre/ boatyard building is a large building adjacent to the canal, Officers consider this is not inappropriate along the canal and water front edge in Oxford. This framed view offers a new series of views into the site from both northern and southern approaches, which is comparable to other glimpsed and surprise views within the fabric of Oxford and its Colleges and whilst it alters the character of the canal from currently more open views, Officers do not consider this to be harmful or inappropriate to the canal side or the conservation area.
20. In terms of longer views into and out of the site, the view to the Tower of the Four Winds in the ROQ which is visible in winter months is not retained along Cardigan Street, the loss of this view was accepted in previous development proposals for this site and given the irregularity and constraints of the site, together with the amount of development required within it, Officers consider that it is acceptable to lose this view in this case. The proposal would not be significantly visible from or to other public views within or from outside the City, including that of Port Meadows and Carfax Tower.
21. Furthermore Officers are of the view that the architectural design of the whole development is of an exemplar quality. Whilst contemporary in design the Architects have successfully interpreted architectural references of the area in the proposals including chimney stacks, polychromatic patterned brickwork

and pitched roofs and a regular pattern of windows. The community centre reflects a more commercial/ waterside development but uses vertically hung timber slats across the façade with hidden windows, a small external balcony and a recessed terrace, which would serve to breakdown the scale of the building and the timber slats would make it more lightweight in appearance. The restaurant flat building offers an exception to the regular pattern of windows, again offering a contemporary interpretation which, whilst different, is welcomed by Officers and seen to emphasise the landmark corner building.

22. In conclusion therefore, it is considered that the development responds well to the development brief and would result in an exemplar architectural development that would enliven the area whilst respecting the character and appearance of the area and heritage assets, and is acceptable in accordance with Policies CP1, CP8, CP9, CP10 of the OLP and HP9 of the SHP and CS18 of the CS and the JC SPD.

Heritage Assets:

23. The Oxford canal has its origins in the Oxford Canal Act of 1775 and between its opening and the construction of the Grand Union canal it and the Thames was the principal water route linking the West Midlands with London. The wharves were opened in 1789 on the Oxford Canal and used mostly for stone, coal and timber. The wharves enabled goods to be taken in and enabled the development of the local ironworks and publishing industries. These industries required workers' housing to be built nearby, resulting in the distinct character of this working class area. The wharves were closed in 1955. The site has significance as it is the last remnant in Oxford of the working canal transport network.
24. The character of the 'Central Jericho' part of Jericho Conservation Area is a blend of terraced cottages tightly packed along narrow streets. The streets are generally compact, in a 'grid iron' alignment, with two storey terraced cottages having a uniformity of character and commonality of materials. The buildings retain original architectural details and there are survivals of Victorian commercial buildings. Some three storey housing exists, but this is a rarity and is usually confined to no more than two adjoining houses.
25. Historically the canal side in this area has been used for materials handling and transshipment or for boat yard activities. Consequently development has been sparse and ad-hoc with a small number of rudimentary buildings on site of a single storey unlike the Eagle Works to the north. As a result the canal south of the Mount Place foot bridge shares a character with the surrounding terraced streets.
26. The canal and the wharves represent a physical reminder of the earlier transport links into the city. Its primary function now is recreational with some residential moorings and chandlers adding a level of activity. The buildings that remain on the site of the closed boatyard are a collection of single storey buildings reflecting the history of use.

27. The street structure allows for a number of long views. Whether by design or not St Paul's Church, St Barnabas Church and the Radcliffe Observatory are framed in a number of key views. The interaction of St Barnabas and the Radcliffe Observatory along Cardigan Street is of great interest and is revealed when the leaves fall in the autumn.
28. St Barnabas Church is not only an important landmark in the area but also a nationally significant building. Its Grade I listing acknowledges its innovative construction, unique design and decoration, as well as being the work of a leading church architect and an important monument to the Oxford Movement. The campanile is clearly visible from many streets, either towering over buildings or in full view.
29. St Barnabas Church has a towering effect near the canal. Early images of the church show two entrances looking over a mid-height stone wall onto the canal. This visual relationship has been negated to a degree by development against the canal side of the boundary wall. The existing hoardings around the boatyard detract from the character of the area. The towpath side of the canal, along with the banks of castle mill stream, is characterised by a 'wild' and dynamic treescape. The trees, which are of indigenous riparian species, provide a green back drop to Jericho as well as a screen between the differing townscapes of Jericho and Rewley as well as the railway. Few of the trees are of individual merit but they have group value to the canal and conservation area as a whole. This canal is an ecological and amenity asset for Jericho and the City. It also forms an important part of the wider character of Oxford, in that it is one of the numerous ribbons of waterway and greenery that bring the countryside into the City.
30. The residential moorings to the south of the area have allowed a waterborne community to build up. It is well used route for cyclists and pedestrians into the City and train station. Access to the towpath from Jericho is limited and only possible at Mount Place or Walton Well Road.

Assessment

31. Policies CS18 of the Core Strategy (CS) and Policies CP8 and CP9 of the Oxford Local Plan (OLP) collectively seek to inform the decision making process and building upon the requirement in the NPPF for good design. Without being overly prescriptive the policies emphasise the importance of new development fitting well within its context with high quality architecture and appropriate building height, design, massing and materials creating a sense of place and identity.
32. In respect specifically to the historic environment, CS18 of the CS states that development must respond positively to the historic environment but not result in the loss or damage to important historic features or their settings. Policy HE7 of the OLP further adds that the special character and appearance of the conservation area should be preserved with Policy HE3 stating that planning permission will only be granted for development that respects the character of the surrounding of listed building and have due regard for their setting.

33. The NPPF reiterates the Government's commitment to the historic environment and its heritage assets which should be conserved and enjoyed for the quality of life they bring to this and future generations. It emphasises that the historic environment is a finite and irreplaceable resource and the conservation of heritage assets should take a high priority. Local Planning Authorities should take into account the desirability of sustaining and enhancing the significance of heritage assets in considering a proposal and also desirability of new development making a positive contribution to local character and distinctiveness.
34. At the heart of the NPPF is a presumption in favour of sustainable development which is stated to mean, unless material considerations indicate otherwise, approving development proposals that accord with the development plan without delay. However, development that causes harm to a heritage asset or its setting should be avoided unless there is a public benefit to outweigh that harm.
35. The significance of the heritage asset can be harmed or lost through development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. If harm is identified then it should be assessed as to whether the harm is substantial or less than substantial. The NPPF goes on to state that substantial harm to a grade II listed building, park or garden should be exceptional and Local Planning Authorities should refuse planning permission unless it can be suitably demonstrated that that such harm or loss is necessary to achieve and outweighed by substantial public benefits.
36. If a proposal is considered to cause less than substantial harm, then this would also need to be weighed against the public benefits of the proposal. Whether a proposal causes substantial harm will be a judgment for the decision taker, having regard to the circumstances of the case and the policy in the NPPF.
37. Furthermore recent case law (*Barnwell v East Northants District Council and Secretary of State*, Feb 2014) has shown that in making a balancing judgement between any harm and the public benefits of a proposal that decision makers must give considerable weight and importance to their duty to protect listed buildings and their settings.
38. Published guidance by English Heritage [*The Setting of Heritage Assets*, October 2011] provides a methodology for understanding the setting of a heritage asset and how it contributes to the heritage significance of that asset and explains how to assess the impact of development. English Heritage explains that the setting of a heritage asset is the surroundings in which it is experienced; furthermore the setting is not fixed and may change as the surrounding context changes.
39. The proposals have been considered in terms of how they would affect the Conservation Area, as an area of special architectural or historic interest, the

character or appearance of which it is desirable to preserve or enhance. The proposals have been considered in terms of how they would affect, and whether they would cause harm to, the setting of the grade I listed Church of St Barnabas and other heritage assets (both designated and non-designated).

40. The church's original immediate setting is shown in Henry Taunt's photograph of 1875 and the 1st edition of the 25" OS map of 1876, showing a wharf. There were no buildings on it and a low wall separated church and wharf. The west end of the church is therefore a relatively formal composition, with an apse flanked by two entrance portals that was designed to be seen from the canal. The church tower and clerestory were intended to be highly visible from a distance. Long views of tower and clerestory seen above the surrounding houses from nearby streets and the canal itself are therefore important and make a contribution to the significance of the grade I building.
41. English Heritage (EH) when initially consulted were broadly supportive of the proposals but raised a number of concerns about the design of individual elements. These were the height and bulk of the community building, the height of the fence around the children's play area and the chamfered design of the elevation of the corner restaurant building. The revised proposals only partially address these concerns. The design of the community building roofscape into three separate pitches greatly improves the elevation facing the square but as the eaves height increased this does nothing to address concerns regarding the impact on views of St Barnabas' Church from the canal (note: EH misinterpreted the plans and thought the overall height remained unchanged whereas it is lowered by approx. 1.37m). The eaves height is determined by the requirement in the brief from the Jericho Community Association (JCA) for the community building to have a badminton court that meets Sport England standards. There is already no shortage of badminton courts in Oxford of a higher quality and it would be possible to play badminton in a slightly lower hall using local rules to account for the lower than ideal ceiling height. However, the JCA does not appear willing to diverge from this requirement. EH therefore considers that to provide a badminton court for which there is no apparent need is perverse and it is difficult to justify the harm entailed to the significance of a highly graded heritage asset on this basis.
42. Notwithstanding the comments of EH, the roof height of the community centre and boatyard has been lowered by approximately 1.37m so as to reduce the impact on the setting of the church. The eaves height has been raised by 1.6m as a consequence to accommodate the JCA requirement for a badminton court. Officers recognise that some harm would be caused by reducing views of the church from the canal this harm is considered to be less than substantial. The changes would be to reduce the extent of the views of the church from the canal side and elsewhere, and would create framed views and a sense of enclosure formed by the public square. The ridge height of the community centre and boatyard would still be lower than the eaves height of the church, notwithstanding any lack of justification for the badminton court. However the proposals would preserve the effect of the clerestory rising up over buildings of relatively similar heights but with a varied roofscape. In

addition the scale and bulk of the development would allow the church to retain its pre-eminence. The canal and industrial aesthetic of the building, aligned closely to the canal with a sheer wall, is a characteristic of canal side architecture is considered appropriate for this location. The development also provides affordable housing, a community facility and pre-school nursery, boatyard, public open space and new bridge which are significant public benefits to the residents and surrounding area. It is considered therefore on balance that the harm that would be caused is justified by the public benefits of creating a public square and bringing the vacant site back into community use.

43. The public square would create an appropriate setting for a church of this scale, similar to a piazza. This opening up would better reveal more views of the church. The setting of the church at Dawson Place apart from the small green area would change from garages to a higher, more dense and active frontage with the pre-school and cycle racks. The two car parking spaces that would be formed at Dawson Place would cause some local but not significant harm due to the closeness of two cars to the church. However, parking is very restricted in this locality and on balance this would be the least harmful location to the church. From a number of streets such as Canal Street, parts of the views towards the church would be lost. Overall this change would not be harmful to the setting of the church. There would be four car parking spaces at the south door where there are spaces already.
44. The terrace houses are designed to fit into the aesthetic of the Jericho houses with patterned brickwork and pitched roofs clad with slate. The demolition of the existing rear extension and erection of two storey extension to the vicarage would not cause harm to the significance of or the setting of this undesignated heritage asset.
45. A mitigation for the loss of heritage features would be the salvaging of historic materials and features for re-use on the site. This would help integrate the proposed development with its surroundings and retain elements of its past that form part of the character of the area. Further mitigation would be architectural recording of the existing buildings and structures, which both could be secured by condition.
46. In conclusion therefore, considerable weight and importance has been given to the desirability of preserving or enhancing designated heritage assets and their settings, including the listed building(s) and/or conservation area. The new development may cause harm to the setting of the Grade I listed Church however, it is considered that this is less than substantial harm and in any event is outweighed and justified by the significant public benefits of providing the affordable housing, community facility, boatyard, public open space and new bridge. The development would not be harmful to the character and appearance of the conservation area or canal or other non-designated assets, however, any harm is also justified by the public benefits of the development. The proposal therefore accords with HE3, HE7, CP9, CP9 of the OLP, MP1 and SP7 of the SHP, CS18 of the CS, the JC SPD and NPPF.

Bridge and Footpath links:

47. The application as originally submitted showed a swing bridge at the northern end of the canal from the towpath to the public open space (POS), close to the restaurant. To the JWT, JCA, other members of the public and indeed Officers, this appeared to be an ideal and preferred location for the bridge, bringing people through the square thereby enlivening it and capturing 'passing trade'. An alternative location favoured by the County Council, JCBY and residents is to the southern end of the site linking through to Great Clarendon Street, seen as a more legible route through for people accessing the Oxford University Press and ROQ sites nearby and the rail station at the other southerly end of the towpath.
48. The Canal and Rivers Trust (CRT) own the canal and a 0.5m strip of the application site (for moorings) and the towpath. They made it very clear from early consultation response that they would not agree to a lifting or swing bridge in the northern location adjacent to the POS due to the proximity of the bridge to the winding hole (danger of a winding boat crashing into a boat waiting to go through the bridge) and loss of moorings (this being the closest to the city centre and in high demand). They wanted a fixed bridge and the southern location. Clearly without their agreement it would not be possible to cross the canal at all, which would be a dis-benefit to everyone.
49. During the application process there has been negotiation between the Applicant, CRT and Officers in order to resolve the issues and provide a bridge as part the development and meet the JC SPD and Policy SP7 requirements. Several different bridge options (type and location) have been considered including; a fixed bridge at the POS end but the ramps for DDA compliance would have been approximately 20m in length and compromised both the POS and the towpath; two bridges to enable a direct link to the POS but again the CRT object to two bridges in close such proximity. In the event the CRT has agreed to a lifting bridge at the Southern end linking through with Gt Clarendon Street. Whilst this is a disappointment to many and the JCA and JWT have objected to this location, unfortunately at this stage this is the only viable option that would secure a DDA compliant bridge and a crossing. The CRT however, has said that it is willing to continue the dialogue with the Applicant in the future to see whether an alternative could be found. Notwithstanding this undertaking by CRT and Applicant, Officers' consider that the bridge is acceptable in this location, achieving the desire and need for an at grade bridge, which links the towpath from town to Jericho, and is a legible route for commuters and leisure walkers. Whilst it is acknowledged that this is not directly in to the POS and therefore, in some people's view less than ideal, it should be accepted in accordance with Policy SP7 of the SHP, TR5 and SR9 of the OLP, CS14 of the CS and the JC SPD. The provision of the bridge and maintance can be secured by S106, with the design details to be agreed.

Community Centre/ Boatyard:

50. This building has been designed in consultation with the JWT, JCA and JCBY.

The JCA has commented the community element specification is based on the main Hall on the 'Village Hall specification' which is supported by Sport England. They have also identified what they consider to be a reasonable combination of other spaces in order to generate sufficient income to continue to run a completely self-sufficient Community Centre in new premises, which is based on their experience running the current self-funded community centre. This also includes a badminton court.

51. Notwithstanding the issues outline above regarding the design of this combined building, it would be a multifunctional community building, designed in three parts to reduce the overall size and massing and create visual interest. To the eastern end is a pre-school nursery with ancillary kitchen and facilities, which would use the existing open space onto Canal Street as the children's play area. This would retain the existing trees also, which is welcomed. Above the nursery are two floors of smaller community rooms (top floor in the roof) which the JCA wish to rent out as they do currently. Centrally would be the entrance to the Community Centre providing reception, café, museum to the history of the canal / boatyard, exhibition space and again rooms above. To the western end, as already discussed, is the boatyard at ground floor with badminton hall and another smaller function rooms above. Behind this element and adjacent to No.9 Coombe Road is a chandlery with two ensuite bedrooms upstairs for temporary accommodation for boaters. The boatyard element provides 2 wet and 1 dry docks with 2 ancillary workshops to the rear.
52. Generally to the rear of this combined building has been scaled right down to single storey and has an appropriate relationship to the residential properties to the rear. It would not appear overly overbearing and although it would impact on light to some rooms and gardens, this would not be significant. The exception to this is the eastern end where the nursery is and the chandlery end.
53. The eastern element of the building is 7.5m to eaves and 2.5m away from the garden of No.10 Canal Street. No comments or objections have been received from this property. Officers were concerned that the building would have a detrimental impact on their residential amenities in terms of significant loss of sunlight to their garden (indicated in the sunlight daylight report submitted) and an overbearing impact. The building has therefore been reduced at first floor level away from Canal Street so that a metre gap is left between the end of No.10 and before the new building starts. In addition the rear of the building has been redesigned to move the lift/ staircase element further away and integrated centrally into the building. This has reduced the impact on shadowing of the garden to an acceptable degree. However, in Officer's view the development would still have a poor relationship to this property and harm their residential amenities in terms of overbearing impact, even taking into account the changes made and the removal of the existing garages that abut their garden, contrary to CP1 and CP8, CP9 and CP10 of the OLP and CS18 of the CS.
54. The chandlery element of the building, whilst two storey would be 4m to eaves

(as amended) and run for a length of 8m along the western boundary of No.9 Coombe Road. Currently there is an existing single storey building with pitched roof that has served as part of the College Cruisers officer and storage accommodation, and will be demolished. Additionally historically there was a high close boarded fence along the west dwarf retaining wall of the house. Officers consider that again this part of the building would still have a poor relationship to this property and appear overbearing and enclose the garden to the detriment of the occupiers residential amenities, even taking into account the existing building there and a 2m high boundary treatment that could be erected under PD. It would therefore also be contrary to CP1 and CP8, CP9 and CP10 of the OLP and CS18 of the CS.

55. However, it is also considered that there are significant benefits to the community from this new state of the art community/ boatyard building and are a material consideration which should be taken into account. The community building would provide a pre-school nursery, café, museum to the history of the canal / boatyard, exhibition space, new badminton hall and various other size community function rooms. Together with the boatyard element which provides for the local and wider boating community. As such it is considered that the benefits to the community should outweigh the harm to the adjacent residential property in this case. As such the community centre provision should be accepted in accordance with Policies CP1, CP8, CP9, CP10, SR16 of the OLP and SP7 of the SHP and CS18 of the CS and the JC SPD.

Winding hole and canal works:

56. The existing winding hole just south of the site is only suitable for the smaller boats, the largest 22m boats have to go through the lock and turn on the River. This becomes problematic once the river is in spate. It is not possible to enlarge the existing winding hole, as the towpath cannot be reduced in size and the land opposite is owned by Worcester College, who are apparently not willing to sell. The proposed winding hole therefore provides a turning area for the largest 22m boats and would make it possible for these boats to turn all year round. It is combined with the entrance to the 3 boatyard docks. The CRT welcomes the improved winding hole. It requires all works to the canal to be done in one engineering operation. This has led the Applicant to decide to construct the three docks and boatyard building (to roof level). This is over and above the requirement of the JC SPD (as set out above) and would enable the community element of the building to be constructed on top, once funding was achieved.

57. The development also requires the upgrade of the canal edge and works to provide the bridge. Replacement moorings will need to be created on the canal bank to the north of the Mount Place Bridge on the Western bank as a result of the new bridge. The Jericho Community Boatyard (JCBY) has also indicated that they need 3 moorings to allow for boats waiting to access the boatyard, or waiting to be picked up. The need for these moorings is recognised, however they do not require planning permission but instead the permission of the CRT.

58. The winding hole and works to the canal and replacement moorings as a result of the bridge can be secured by S106 and are considered acceptable in accordance with Policy SP7 of the SHP, NE6 and NE12 of the OLP and the JC SPD .

Residential:

59. The development proposes 23 residential units broken down as follows:

- 13 of these are 3 bed terraced canalside townhouses (although they all include a study room that is capable of being used as a fourth bedroom) with a limited garden at ground level but supplemented by front and roof terraces to provide a reasonable outside amenity space;
- 1x 4 bed house (called the Southern House) with integral garden at first floor;
- Adjacent to the terraced houses and above the restaurant are 7 flats (4 x 2bed and 3 x 1 bed); and
- Adjacent to the Vicarage is a new building providing an additional 2 x 1 bed flats. A total of 9 flats are provided altogether.

Balance of Dwellings (BODs):

60. CS23 of the CS requires an appropriate mix of residential dwellings and is supported by the BODs SPD. The site lies within a neighbourhood area highlighted as 'amber' in the BODs SPD requiring developments of 10 or more units to provide a mix of sized units including family units of 3 or more beds. The proposal provides 3 and 4 bed houses and 2 bed flats in accordance with the percentage in BODs for this amber area. However it is slightly over the percentage for one beds, taking it to 22%, 2% over the 20% required. Whilst this is marginally over the percentage it is considered that given the context of the development as a whole, providing other significant public benefits to residents and the neighbourhood, that these material considerations on balance mean in Officers view an exception to the BODs requirement can be fully justified in this case.

61. Whilst contrary to BODs the development provides for a mix of units and much needed affordable housing provision in accordance with CS22 and CS23 of the CS.

Affordable Housing:

62. Policy HP3 of the Sites and Housing Plan 2011-2026 (SHP) states that planning permission will only be granted for residential development on sites with capacity for 10 or more dwellings if a minimum of 50% of the dwellings on the site are provided as affordable homes, with 80% of these social rented and 20% intermediate tenure. Policy HP3 also sets out that exceptions will be made only if it is robustly demonstrated that this level of provision makes a site unviable, in which case developers and the City Council will work through a cascade approach, incrementally reducing affordable housing provision or financial contribution, until the scheme is made viable.

63. Policy HP3 also requires that the developer must demonstrate that the mix of dwelling sizes meets the City Council's preferred strategic mix for affordable housing. The Affordable Housing & Planning Obligations Supplementary Planning Document (AHPO SPD) sets out in Table 2 the strategic mix of unit sizes for sites outside the City and District centres, which in summary requires at least 45% of affordable units to be family size houses.
64. The application as originally submitted proposed the provision of 32% affordable units (7 flats in total), all of which were intermediate tenure (shared ownership). It was therefore contrary to Policy HP3 both in terms of the proportion of affordable housing and the tenure and mix of dwellings. The Applicant submitted Financial Appraisal Supporting Statement containing viability evidence seeking to demonstrate that any contribution to affordable housing beyond the 7 intermediate flats proposed would make the scheme unviable and therefore an exception should be made in this case, in accordance with HP3.

Viability appraisal

65. As outlined, there is flexibility within Policy HP3 to apply the 'cascade approach' where there is robust evidence that the full affordable housing provision will make the site unviable. This is consistent with the NPPF (paragraph 173) regarding viability, which refers to the need to provide "competitive returns to a willing land owner and willing developer to enable the development to be deliverable".
66. A developer must work through the cascade approach in order to robustly demonstrate why an alternative provision of affordable housing should be considered. Firstly they must test scenarios of incrementally reducing the proportion of intermediate affordable housing on site to a minimum of 40% social rented affordable units. As a last resort, if 40% affordable housing is still unviable, the applicant may provide a financial contribution in lieu of on-site affordable units starting at 15% of the sales values of the dwellings.
67. The submitted Viability Appraisal by Pioneer concluded that only 7 of 22 units (32%) could be supported as being affordable, and that these would necessarily be intermediate (shared ownership) tenure.
68. The Council's methodology for assessing viability is set out in Appendix 3 of the AHPO SPD. In simple terms, this works out what a developer could afford to pay for a site it wishes to develop (the RLV). This is calculated as the difference between the Gross Development Value (GDV) – i.e. what the completed development is worth when sold – and the total cost of carrying out the development, including an appropriate margin of developer profit. The RLV is then compared with an appropriate benchmark land value. If the RLV is greater than the benchmark value, then the scheme is viable.
69. In normal circumstances the benchmark land value will be the value of the site in its current condition, should it be sold for its current use, plus an additional

uplift in this value as an incentive for the current owner to sell (a “competitive return to a willing landowner”).

70. Viability appraisals involve a number of assumptions and estimates being made in a model. Even small differences in these assumptions can make a significant difference to the outcome of the appraisal. Therefore, it is important that all figures fed into the appraisal are clearly justified with appropriate evidence to ensure a robust viability appraisal. In this case, on reviewing the viability appraisal officers concluded that the applicant had not satisfactorily demonstrated that a much higher level of affordable housing provision could not be delivered on the site whilst still maintaining viability. Key issues identified in the viability appraisal were:

- The policy cascade had not been used, i.e. only one option for providing 32% intermediate affordable housing in the form of flats was tested;
- The approach to reaching a reasonable ‘benchmark’ land value was not justified: the applicant used a purchase price reportedly agreed with the landowner (£2.625 million), rather than based on an assessment of the existing use value plus a reasonable uplift;
- Insufficient evidence on residential sales values provided, relating to both open market and affordable units;
- Insufficiently robust evidence on construction costs, that lacked the transparency needed to understand whether unnecessary additional costs had been included;
- Other detailed elements of the appraisal were not sufficiently justified.

71. When in the course of discussions it became clear that agreement would not be reached on the viability appraisal and its assumptions, both parties agreed to commission an independent assessment to audit the viability information provided by the applicant and provide a professional judgement about key elements of the appraisal. In particular, it was agreed that the various costs assumed in the appraisal required careful independent analysis, taking into account the reasonable costs of additional infrastructure required by the Canalside Jericho SPD.

Independent Assessment of viability appraisal

72. The Independent Assessment Report (IAR) was prepared in September and October 2014 by Evolution PDR, with the input of both officers and the applicant as appropriate. It should be noted that in considering the application, officers and members have had access to the full independent assessment. As it contains material that is considered by the Applicant to be commercially sensitive, only a summary version has been made available to the public.

73. Officers consider that the Independent Assessment has been thorough in its preparation, and advise that it should be accepted as an independent

professional judgement from an expert consultant who is a qualified Chartered Surveyor and Planner. The IAR therefore provides a sound basis upon which to agree a position between the applicant and the City Council. A key conclusion of this independent assessment is that a reasonable value to assume for the site, taking into account the specific history of the site, the policy context and alternative schemes that could be achieved, would be £2.3m (based on a residual land value approach). Further main conclusions of the IAR can be summarised as:

- The period for sale of units was reduced by 3 months, improving the cashflow thus improving viability;
- The prices assumed for the sale of open market houses (sales revenue) considered overall to be appropriate;
- The revenue assumed from the sale of affordable units was considered too low and adjusted upwards to better reflect local evidence (thus improving viability);
- An additional 4.25% uplift in construction costs to account for cost inflation is considered inappropriate and therefore discounted, thus improving viability, however other elements of the build cost plan submitted by the developer are considered acceptable (noting exceptions below);
- Additional costs proposed by the developer to deliver the dry dock, purchase additional land and for an unjustified 'penalty payment' for late acquisition of land were discounted (thus improving viability);
- Professional and marketing fees adjusted to bring more in line with standard assumptions, and
- Target profit margin towards higher end of the typical range of 15-20% of Gross Development Value (equating typically to 20-25% profit on costs) considered reasonable for a site and development of this nature.

74. The assessment considered the potential for the scheme to be viable at 50% affordable housing with a policy-compliant unit mix. This found that the scheme was unlikely to be viable, given all of the policy requirements on this particular site for public realm and other provisions (as set out in the SPD), so further assessments were undertaken to consider the potential viability at 45% and 40% contribution levels.

75. The conclusions of the audit indicate that even 40% affordable (including the tenure requirements is unlikely to generate sufficient profit returns to be considered viable to permit the scheme to go ahead). Therefore further options analysis was undertaken to consider alternative approaches to maximise the affordable housing contribution. The main options considered (as reported in the independent assessment) were:

- Option 1: amendments [reductions] to the extent of the public realm provided. However, this approach was found to require a substantial reduction in the overall provisions to the point where the benefits of provision could be questioned, although it was recognised that alternative sources of funding may be found to deliver the public realm elements if necessary.
- Option 2: maximisation of the public realm with a reduction in the provision of affordable housing. Specifically this considered the provision of 7 social rented units only. This option represents 32% social rented affordable housing, which is below the 40% “ bottom end” target using the policy cascade, but of a mix approximately in keeping with the AHPO SPD. In order to reach a scheme which generated benchmark profit levels indicated, the public realm elements would need to be reduced, effectively losing the proposed bridge crossing. At this, the profits achieved would generate 20.94% on cost, and 17.31% on value. These were considered to meet acceptable threshold values, and identified as an optimum scheme.
- Option 3: the provision of 32% affordable units on an intermediate basis as proposed originally by the applicant. Such a scheme was considered to generate profit values significantly in excess of the benchmarks identified, and it is considered that the scheme could progress on this basis. However, given the excess in the benchmarks identified, it is considered that there is some scope for additional obligation greater than those suggested, such as the provision of an alternative tenure mix to include a proportion of social rented accommodation.

76. Overall the audit concludes that ‘option 2’ of the independent assessment represents the optimum scheme – and could support provision of 32% social rented units consisting of three 3-bedroom houses, one 2-bedroom house, and three flats. This scheme would allow an acceptable profit margin generated, assuming the bridge were removed from the requirement but the provision of the public square and winding hole are still delivered.

Further negotiations and officer conclusions on Affordable Housing

77. Further discussions were then held with the Applicant in light of the independent report being received by both parties. The Applicant did not want to remove the bridge or the restaurant from the proposal, believing both are essential to creating an enlivened and vibrant public open space and instead 39% affordable housing (9 units), all of which on a social rented basis, has been proposed. These are 1 & 2 bed flats, and will be provided in addition to the public square and towpath improvements, new bridge, winding hole and land being made available for the boat dock and community centre.
78. Officers have been conscious that this falls short of the 50% target in policy HP3, and also that the mix of affordable units does not comply with the strategic mix required by Table 2 of the AHPO SPD. However it is considered to be at least equivalent to the level of affordable housing shown as viable by the Independent Assessment carried out by Evolution PDR. Whilst the AHPO

SPD is an important material consideration, the independent viability assessment has shown that the wider benefits to be provided by the site (bridge, winding hole, public space etc) impact significantly on the ability of the site to viably provide the target level of affordable housing. Provision of flats available for social rented tenure, whilst not achieving the optimum mix, allows the lower rung of the cascade approach set out in SHP Policy HP3 to almost be achieved. This material consideration, in relation only to this specific site, is therefore considered to outweigh Table 2 of the AHPO SPD. In relation to SHP Policy HP3, the proposal is on balance considered to be reasonable in terms of the overall planning balance to bring forward the complex site and the associated public realm and infrastructure costs which are specific to that site. It also significantly delivers affordable housing on-site in this exceptionally high-value area of the City, which would otherwise remain out of reach to many of the population.

79. In conclusion therefore, Officers therefore consider that on balance, taking into account all material considerations, that 39% affordable housing all at social rent would be acceptable in this case, in accordance with Policy CS24 of the CS and HP3 of the SHP.

Amenities & impact on neighbours:

80. The flats are of the required floor area set out in HP12 of the SHP and two units are wheelchair accessible and all are to Lifetimes Homes standard in accordance with HP2 of the SHP. The flats have private balconies and houses have their own private garden area or a combination of garden and terraces in order to achieve an adequate size area in accordance with policy requirements. Officers have also taken in to account the proximity to the canal towpath and Port Meadows and thus consider that the amount of outdoor amenity space is acceptable in accordance with Policy HP13 of the SHP. Bin storage is provided for the residential uses, details of which can be secured by condition in accordance with HP13.

81. In general the development has minimal impact on neighbouring properties with a couple of exceptions commented on below. Where necessary overlooking windows would be obscure glazed or at high level, for example on the rear elevations of the terraced houses to St Banabus Street.

Overlooking / Privacy

82. The new window to the first floor living area within the new rear extension to the Vicarage is likely to give rise to overlooking to their neighbours garden. It is noted that is it south facing and understandably the occupiers would want to maximise the benefit of that aspect. It is considered that a different type of window could still easily achieve this whilst reducing the potential negative impact on their neighbours. This could be secured by condition requiring further details of this window.

Sunlight / Daylight

83. The impact of the massing of the development on the sunlight and day lighting to the neighbouring properties has been explored in some detail. An

assessment based on the BRE guidance was carried out by Watts Group. After their initial assessment, the roof profile of the terraced houses was reduced and the restaurant block moved away from the adjacent properties and the scheme reassessed. The study however does not take account reflect surfaces/ materials such as glass or painted render, and can be seen as a worst case scenario. The results of this submitted study show that overall the impact on neighbouring properties is in line with the criteria set out in the BRE guidance and therefore acceptable.

84. However in relation to No13a St Barnabas Street, which is a converted workshop building that sits adjacent to the boundary, the impact from the new terraced housing would be significant, in particular to the upstairs rooms. At ground floor level are two windows that face directly onto the close boarded fence and which are to an open plan downstairs habitable living areas (kitchen/ dining/ sitting room). The ground floor also gains light from windows and glazed doors facing in to the garden area. At first floor are two bedroom windows with windows facing directly east onto the development. The new housing would result in a significant reduction in light to the bedrooms according to the BRE guidance and therefore noticeable impact on their amenities contrary to Policy HP14 of the SHP. Whilst this would in other circumstances be a reason for refusal, Officers consider the wider benefits of the development as a whole are a material consideration, together with the fact that the main habitable rooms on the ground floor would still have a good level of light. Therefore it is considered that an exception to Policy should be made in this case.

Overbearing

85. Again the most significant impact would be to 13A St Barnabas St due to it's proximity to the joint boundary. As a result of concerns expressed by officers that the terraced housing would appear overbearing to this property, the central 3 units closet have been moved away. Whilst this has not removed the adverse impact it has mitigated it and bearing in mind the suburban and close-knit nature of the area and the wider benefits of the development as a whole, it is considered on balance that this is acceptable.
86. With regard to the Vicarage, the new rearextension proposed mitigates against the restaurant/ flat block appearing overbearing and overshadowing to the property. It is essential therefore that this extension is built prior to this element of the scheme, should permission be granted. This could be secured by condition. In relation to their adjoining neighbours (south) the extension would not have an adverse impact on their residential amenities in terms of overbearing or loss of light.
87. In summary therefore Officers consider the development acceptable in accordance with Policy HP14 of the SHP, subject to conditions where appropriate.

Restaurant:

88. The restaurant is an ancillary use which is considered acceptable within the

development brief in the JC SPD. Its inclusion within the development would be a draw for visitors from Jericho, particularly if it is a high profile occupier. The canalside offers a great setting ideal for outdoors café/ restaurant culture. Both the Applicant and members of the public consider it to be an essential part of enlivening the public open space, and Officers concur with this view. No objection is therefore raised to its provision in accordance with the SPD.

89. Conditions could secure hours of opening to ensure there would be no significant adverse impact on neighbouring residential amenities in terms of noise and disturbance from diners and deliveries in accordance with CP1, CP10 and CP19 of the OLP. (other issues regarding noise/ odours are dealt with below)

Public Open Space:

90. The public open space (POS) has been designed with a radial pattern in it which emphasises, and draws the eye to, the western elevation of the church. Cobble stones in different materials are likely to be used. The POS would be for pedestrian and cyclist use only with access for vehicles associated with the boatyard, community centre/ pre-school nursery restaurant and public events on a restricted basis (e.g. emergency services/deliveries/ certain public events only), controlled by removable bollards. Street furniture, lighting, signage, safety barriers to the canal have not been included at this stage. These issues could be secured by condition.
91. The use of the POS is of concern to residents and the Church. It is envisaged that the space could be used for a number of activities including markets, theatre productions etc. How these activities impact on the neighbours could be suitably controlled by condition requiring a strategy for use and management of the POS, including hours of operation. The construction of the POS can be secured by S106. It is considered that this element of the scheme is acceptable in accordance with Policies CP1, CP8, CP9, CP10 of the OLP, MP1 and SR7 of the SHP, CS18 of the CS and the JC SPD.

Cycle and Car Parking:

92. The Highways Authority considers that the site is highly accessible to sustainable modes of transport and the transport statement adequately argues that generation of car trips will be very low indeed. Car parking levels are encouragingly low (only for the Church and disabled unit) and the number of cycle parking spaces for the residential and community centre appear to be adequate. The location and design details of the cycle parking should be submitted and agreed ahead of construction to ensure that they fully support a successful design of the wider site and also that they are in places that are attractive and easy to use. The HA also advises that the bus stop on Canal Street may need to be moved.
93. The development is in a highly sustainable location and a car free development has been accepted in principle within the JC SPD. The residential units could be excluded from the CPZ to control parking, and the

commercial units restricted to deliveries only. The only car parking proposed is 6 replacement spaces for the Church (part of the agreement in order for their land to be included in the development) and 1 disabled space for the disabled terraced house. Adequate cycle parking is proposed for both residential and commercial buildings, and further details of these can be secured by condition. The development would connect into Gt Clarendon Street (which is adopted) but would not upgrade or alter this road in any way. Officers consider that the proposal accords with the policies CP1, TR3 &, TR4 of the OLP, HP15 & HP16 of the SHP.

Landscaping & Trees:

94. The application as submitted included an Arboricultural report which provided an accurate record of the quality and value of trees within the application site. This has subsequently been revised to take into account the impact of development on third party land including the root protection zones of trees in Worcester College and those on the Towpath between the canal and the Castle Mill Stream as a result of the revised bridge location. The site is within the Conservation Area and therefore the trees have legal protection.
95. Policies NE15 and NE16 seek to ensure that development proposals do not significantly harm trees or public amenity. Officers concur with the assessment of impacts on trees within the application site; other than the silver birch and false acacia trees that stand within the area of open space near the Dawson Street/Canal Street junction, they are low quality and value trees that should not constrain the use of the site. No significant trees would be lost and therefore it is considered that there would not be a significant harm to public amenity from the development. The effects on amenity in the area of removing the low quality and value trees can be mitigated by new tree planting.
96. The tree Officer has expressed concern that the house at the southern end will be permanently shaded by the trees in Worcester College. However, this house is built on three levels and at this end of the building at first floor is a study room which is underneath the indicative tree canopy. The windows to this room face northwards into the internal courtyard garden (also at first floor) and onto the canal. Due to orientation the garden would also be partially shadowed by the study room. Given orientation and window orientation it is therefore considered that there would be no significant harm to residential amenities of occupiers from shading of existing trees as a result.
97. A series of conditions are suggested to mitigate the development including landscaping and an Arboricultural Method Statement (AMS) to include details of the suspended, cantilevered floor slab for the house at the southern end of the site which is required to ensure that roots of trees that stand adjacent to the site within the ground of Worcester College are not damaged during construction.
98. On the basis of these conditions the potential harm to public amenity in the area can be mitigated in accordance with OLP policies CP1, CP11,

NE15 and NE16.

Flood Risk:

99. The majority of the site is within Flood Zone 3a with part of the northern area within Flood Zone 3b. During the production of the Sites and Housing Plan, the Inspector was satisfied with the evidence provided by in respect of the Sequential and Exceptions Tests and subsequently allocated the site for development. Policy SP7 requires a site-specific flood risk assessment (FRA) and that development should incorporate any necessary mitigation measures.
100. The design has been developed with this in mind and a Flood Risk Assessment (FRA) was submitted with the application in relation to the original plans. The FRA was reviewed with the Environment Agency and modified to reflect their requests. In summary, it is proposed that floor levels within the new buildings be raised so that they sit above the predicted flood level. The height above the flood level (with the impact of climate change included) varies depending on the use of the building. Residential units will be set 600mm above the predicted 1 in 100 year plus climate change flood level. The Pre-school will set 440 above flood level and the café / community centre 290mm above flood level.
101. As the development builds on unoccupied land there is a risk that flood water that would currently sit on the site will be displaced onto adjacent land and could therefore lead to increased risk of flooding in neighbouring properties. It is proposed that this displaced water be stored in the zone above the water level in the winding hole and docks where land has been excavated. In the event of a flood it will be necessary to allow flood water into the docks, including the dry docks. The boatyard management team will need to ensure that the docks are allowed to flood and it is recommended that they subscribe to local flood alerts so that necessary action can be taken in advance to make boats and the dry docks safe.
102. The Environment Agency reviewed the original FRA and did not object to the proposal and suggested conditions relating to mitigation measures, SUDS, and contamination. They commented on the assumed groundwater flow direction and advised that Hydrogeological investigation studies carried out in this general area typically show that groundwater movement is primarily to the south or towards the Thames (i.e. South West). However, this did not alter their support for the proposed plans would be picked up under both contamination and FRA conditions suggested.
103. However, a late comment received from the EA on the amended plans has subsequently raised an objection to the proposal because the FRA was not updated to consider the effect of a range of flooding events including extreme events on people and property. Specifically the submitted FRA fails to take into account the impact the revised bridge design may have on flood flows/levels in the area. The Applicant has been informed and at the time of writing is updating the FRA and Officers will verbally update Committee on any

further EA comments. In the event that the EA objections are overcome as before, Officers consider that conditions could be imposed to mitigate the development in accordance with Policy CS11 of the CS.

Drainage:

104. Policy SP7 and the JC SPD identified an issue regarding water supply capacity to accommodate the development. A drainage strategy was therefore submitted with the application and further addendum information to satisfy comments received from Thames Water. Consequently, Thames Water has raised no objection to the development in respect of water or waste sewerage connections. The County drainage engineer has commented that the development should be constructed in accordance with SUDs principles. A condition would secure the development be constructed in accordance with the Drainage Strategy and require further details in respect of SUDs. The proposal accords with Policies CP1 and NE14 of the OLP and SP7 of the SHP and the JC SPD.

Contamination:

105. The site is known to be contaminated and a "Updated Baseline Desk Study" report no. R4026/DS dated February 2014 produced by ESG was submitted with the application. The desk study and site walkover have identified a number of potential sources of contamination on and off the site. Previous site investigations undertaken in 2007 identified contamination at the site. The report concludes that an updated Site Investigation is required to further delineate contamination at the site and inform remediation proposals. Since then an "Updated Ground Investigation" (Report no. R4026/GI dated June 2014) was submitted. The site investigation provides an update to the initial ground investigation undertaken in 2007.
106. The revised site investigation report indicates that whilst contamination is present on site, various mitigation and remediation options are available to render the site suitable for use. Officers also note the direction of the groundwater flows and comment that this may alter their findings. However, the recommendations in the report are accepted and a phased risk assessment and remediation condition would secure the subsequent phases of the risk assessment process so as to ensure that all subsequent phases of the risk assessment are carried out including remediation in accordance with Policy CP22 of the OLP.

Biodiversity & Habitat Regulations:

107. An Ecology Report and Bat Survey were submitted with the application. The bat survey indicates that there are no bats roosting in the buildings on the site and the Ecology report makes recommendations for lighting, new tree and shrub planting with native species, bat and bird boxes and opportunities for improving the habitat for Voles on the canal banks. In general Officers agree with both report findings and the recommendations, except in relation to the vole, where the existing and replacement of the hard edge of the canal alongside the development would not create any

opportunities for improving vole habitat. Suitable conditions would secure these biodiversity measures and the proposal accords with Policies CS12 of the CS, NE6, NE20, NE23 of the OLP and NPPF.

Habitat Regulations:

108. As part of the production of the Sites and Housing Plan the City Council undertook a Habitats Regulation Assessment (HRA). This site was relevant to that assessment due to its proximity to the Oxford Meadows Special Area of Conservation (SAC) at Port Meadow which is designated a European Site. Natural England has commented that it considers the proposal is not necessary for the management of the European site and that the proposal is unlikely to have a significant effect on any European site, and can therefore be screened out from any requirement for further assessment. However, the controlling of dust and dirt from demolition and construction processes and the potential recreational impacts upon the SAC given the increase in housing and new access being created over the canal should be fully justified.
109. The HRA concluded that development of this site might increase recreational pressure on the *A. repens* (creeping marshwort) at the SAC due to trampling and dog-fouling. Due to the potential increase in dog walkers that might live on the site and use the SAC, it was concluded that in order to mitigate these recreational impacts, dog and litter bins and an information board must be provided at the Walton Well Road entrance to Port Meadow as set out in Policy SP7. The Applicant has agreed to this as part of a S106 contribution and the design and text of the information board should be integrated with the Oxford City Canal Partnership's heritage initiative. The control of dust and dirt from demolition could be ensured by a suitably worded condition requiring a demolition strategy.

Archaeology:

110. A substantial amount of made ground exists across the site comprised of medieval rubbish dumping as the site was not under occupation before the 19th century. In archaeological terms the site possesses only low potential for containing remains of local or regional significance. For the prehistoric period low general activity is shown for the area whilst for the Roman, Saxon and Medieval periods the potential for remains is also low. There is some possibility of remains from the post-medieval period in the form of remains of buildings that originally stood as part of the canal wharf. There is however a high potential for palaeo-environmental remains.
110. The submitted Heritage Impact Assessment (HIA) notes that archaeological interest of this site is limited and relates to the interest of the 19th -20th century standing structures to be demolished (church rear wall, canal wharf and the boatyard) and the also potential for palaeo-environmental evidence related to the evolution of the River Thames. Officers concur with the HIA and
112. The National Planning Policy Framework states the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect

directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. Where appropriate developers should be required to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible.

113. In this case, bearing in mind the results of the Heritage Impact Assessment, Officers consider that any consent granted for this development should be subject to condition requiring the archaeological investigation take the form of targeted building recording and watching brief in accordance with Policy HE2 of the OLP and the NPPF.

Sustainability:

114. An Energy Efficiency and Renewable Energy Report and an NRIA checklist have been submitted. The scheme has been designed to reduce its impact on the environment both during and construction and use of the buildings. In terms of the NRIA checklist the restaurant and commercial buildings would achieve a 10 out of a maximum of 11 points. A number of strategies will be employed to achieve this:
- Priority given to passive energy saving measures such as good levels of insulation and air-tightness;
 - Medium density, mixed-use scheme on a derelict brownfield site;
 - Very low levels of residential parking and good levels of cycle parking;
 - Shared CHP plant for the restaurant and flats;
 - Photo-voltaic panels installed on community and residential buildings;
 - Ground or water source heat pumps serving community centre
 - Overheating limited by sensible sizing and location of windows, by shading of windows and through specification of appropriate glass types;
 - Water use minimised through specification of efficient fittings
 - Ground floors built above / out of the flood plain;
 - Natural ventilation used wherever possible;
 - Good levels of sound insulation between dwellings;
 - Re-use of materials from demolished structure
 - Sustainable drainage including permeable paving
 - Retention of existing trees wherever possible
 - Sharing of plant and other facilities between boatyard and community centre
115. In addition to the measures set out above, materials will be selected to reduce their impact on their environment either through the specification of materials with a long life-span or low embodied energy. The Applicant hopes that the community centre will be assessed using BREEAM and that it will achieve a Very Good rating.
116. It is considered that the development would achieve 20% renewable energy in accordance with Policies CS9 and OLP CP17 and CP18 and construction and

implementation in accordance with the Energy Efficiency and Renewable Energy report and NRA and further details could be secured by suitably worded conditions.

Other Matters:

Noise:

117. Environmental Impact Report (EIA), the applicant has recognised three noise generating areas which may give rise to complaint. These are stated to be the Dry Dock area, the Community Centre and to a lesser extent the restaurant facility. The report offers computer modelling predictions suggesting that attenuation measures proposed will ensure any noise breakout will be limited to below existing background levels and will not therefore impact adversely on residential amenity.
118. Activities within the boatyard, community centre and restaurant could generate noise above the current background levels. The proposals manage and mitigate against noise becoming a nuisance to neighbours in a number of ways.

Boatyard

119. The main source of noise from the development will be activities within the boatyard such as grinding and drilling. Potential noise levels have been measured in a boatyard and a specification for the envelope to the yard has been established. The EIA report that accompanies this application sets out the proposal in more detail. However, they include:
- Orienting the yard to open up over the canal and square rather than towards existing properties
 - Providing acoustic shutters at dock entrances to seal the southern elevation
 - Providing sliding acoustic wall panels on the western elevation
 - Installing attenuated louvre panels for background ventilation
 - Installing a thick concrete slab above the docks to limit noise entering the halls above.
 - Using solid wall construction at the northern end of the dock area
120. The façade and screens will be designed in line with the performance criteria set out in the Acoustics report.
121. It is likely that people carrying out work in the yard will want to work with shutters and walls open as this will provide good ventilation and good levels of natural light. This will also allow passers-by to see into the yard and watch the activity within. For much of the time this will be acceptable. The use of the shutters and sliding wall panels will be required when staff carry out noisy activities. It will be the responsibility of boatyard's management team to set out how noisy activities are managed and to ensure that the management plan is followed by everybody using the facilities. In addition to the physical controls to limit the escape of noise from the yard, it is proposed that time limits be set that control when noisy work can be undertaken.

Community Centre

122. Most activities within the centre will be relatively quiet and will not cause nuisance to neighbours. However it is likely that the small and large multi-purpose halls will be used for a number of louder activities including wedding receptions, exercise classes and concerts. These rooms have been located away from neighbouring properties and openings in the façade have been limited to the south and west elevations. For most activities these rooms will be naturally ventilated, however for noisy activities it will be necessary to close doors, windows and ventilation louvres and rely on mechanical ventilation. The façade will be designed in line with the performance criteria set out in the Acoustics report.

Restaurant

123. Ventilation equipment from the restaurant will be designed to meet the criteria set out in the acoustics report – ie 10dB below background noise at the nearest residence.
124. Officers concur with the report finding and recommended mitigation and suggest conditions relating to details of air conditioning, mechanical ventilation or associated plant, restriction on noise in relation to neighbouring residential properties, details of a scheme for treating cooking odours and details of a management plan for the boatyard including how noise from operational procedures will be mitigated in practice.

Public Art:

125. The Applicant has set aside a sum of approximately £50,000 for public art as part of the development and proposes to provide it in the form of either the bridge design or within the hard landscaping of the Piazza, the details of which can be secured by condition in accordance with Policy CP14 of the Oxford Local Plan.

Conclusion:

126. The proposed development would provide 23 residential units, a community centre & boatyard, restaurant, public square, winding hole and public bridge across the Oxford Canal. It is considered that the development makes best and most efficient use of the land, whilst achieving the specifics of the Development Brief in the Jericho Canalside SPD and requirements set out the Site Designation Policy SP7. It would achieve a high quality designed re-development of this neglected site and bring a historically important area of the canalside back to life.
127. Of the 23 residential units a total of 9 affordable units (5 x 1 bed and 4 x 2 bed flats) would be provided, all at social rent, and 13 x 3 bed and 1 x 4 bed houses would be for private sale. Whilst the development does not achieve 50% affordable housing contrary to affordable housing requirements, given the viability assessment case and a general compliance with BODs, the provision of a much needed high quality Community Centre and boatyard building, improved winding hole, level DDA bridge, together with a new public

open space and restaurant, and taking into account all other material considerations, Officers are of the view that an exception can be accepted.

128. In Heritage terms, the development may cause harm to the setting of the Grade I listed Church and the Conservation Area. However, it is considered that this is less than substantial harm and in any event is outweighed by the significant public benefits of providing the affordable housing, community facility, boatyard, public open space and new bridge.
129. In terms of impact on neighbouring amenities, in general the impact would not be significant with three exceptions; that to No.10 Canal Street, 8 Coombe Road and 13a Barnabus Street. In these instances there would be harm to their residential amenities. However, taking into account the changes that have been made to mitigate the impact and the overall benefit to the community and residents as a whole from the development, it is considered in Officers view that these material considerations outweigh any adverse impact and the development can be accepted.
130. A car free residential accommodation is acceptable in this sustainable location and adequate cycle parking is provided. There would be no adverse impact to public amenity in terms of landscaping and trees. Biodiversity and tree enhancements can be secured by condition. Whilst the site is in Flood Zone 3a and is contaminated in both cases the development can adequately mitigate for these, and again secured by condition.
131. On balance therefore the proposal is considered to accord with the requirements of relevant policies in the Oxford Local Plan, Sites and Housing Plan, Core Strategy, Jericho Canalside SPD and the NPPF.

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

Background Papers: 14/01441/FUL

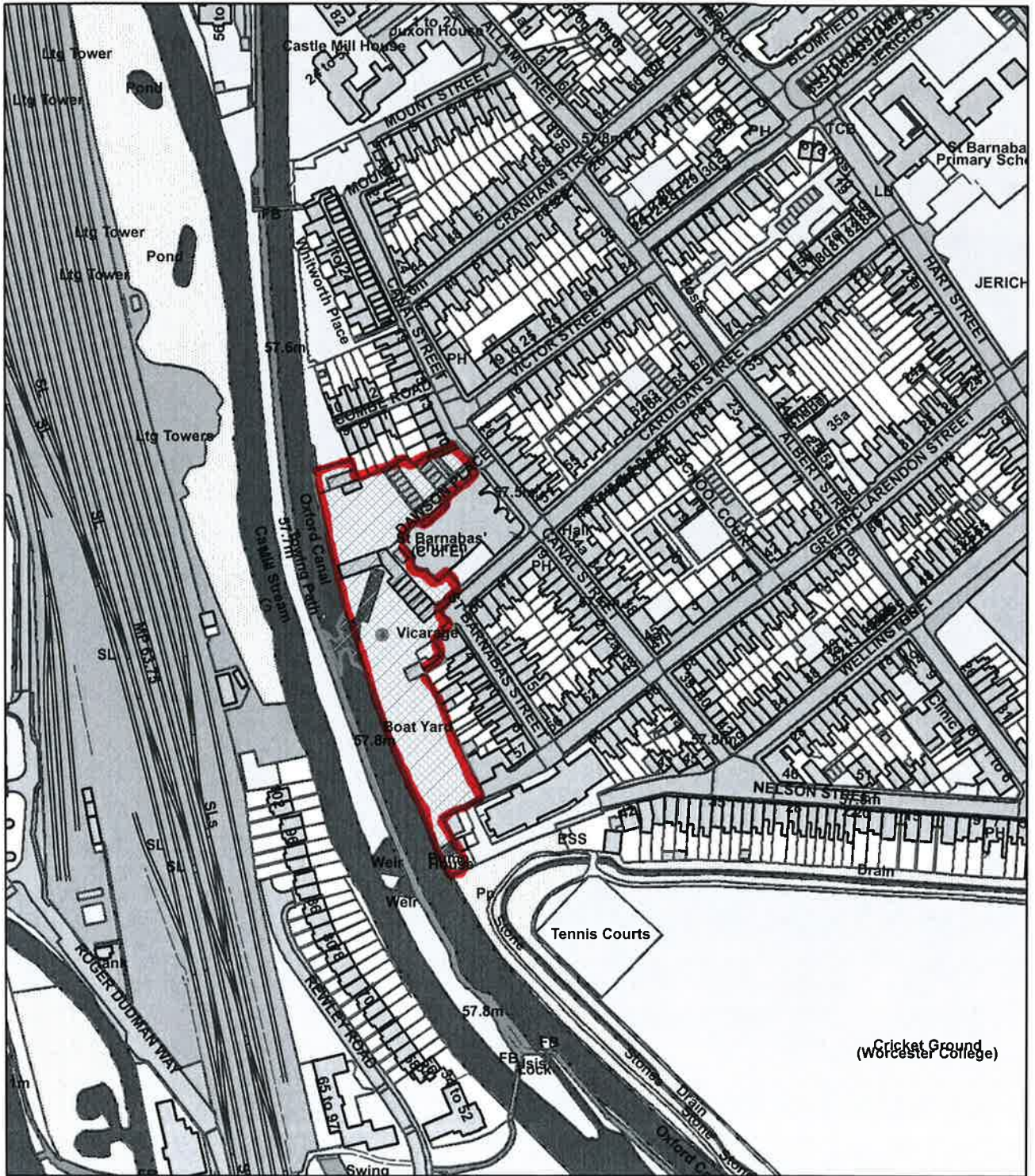
Contact Officers: Michael Crofton-Briggs

Extension: 2360

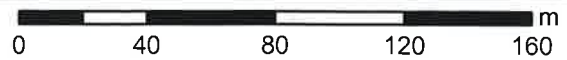
Date: 5th January 2014

Appendix 1

14/01441/FUL & 14/01442/LBC: Jericho Canalside



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Oxford City Council

City Development

Scale: 1:2,231 (printed to A4)

West Area Planning Committee

10th February 2015

Application Number: 14/01441/FUL**Decision Due by:** 18th September 2014

Proposal: Demolition of various structures on an application site including former garages and workshops. Erection of 23 residential units (consisting of 13 x 3 bed and 1 x 4 bed house, plus 5 x 1 bed and 4 x 2 bed flats), together with new community centre, restaurant, boatyard, public square, winding hole and public bridge across the Oxford Canal. Demolition of existing rear extension and erection of two storey extension to Vicarage at 15 St. Barnabas Street and ramped access to church entrance. (Amended plans)

Site Address: Land At Jericho Canal Side Oxford**Ward:** Jericho And Osney**Agent:** Haworth Tompkins Ltd**Applicant:** Cheer Team Corporation Ltd

Addendum Report

Further to Officers report to West Area Planning Committee of 13th January this addendum report provides additional information, clarification and updates. It should be read in conjunction with the officers' main report and appendices.

Representations received:

Further representations from neighbouring residents were received following publication of the committee report. They reiterated the comments already received. A letter was received from No.9 Combe Road stating the occupant does not want to be the garden with no sunlight if there is a high wall around the garden.

Officers have also spoken to St Barnabus Church and it is understood that the PCC is enthusiastic about the proposed redevelopment and the benefits to those who live and work there. Further to reading the Officers' main report and discussions with the Architect and Developer regarding the bridge location and the amount of affordable housing, it hopes that all parties will work towards delivering the bridge at the northern end. However, if it proves impossible to do so, and other measures could be put in place to allay their concerns, then the PCC support the proposal. With regard to the level of affordable housing proposed the PCC notes the Officers main report and accepts that a compromise may be necessary in the interests of avoiding a further prolonged period of dereliction. Finally, the PCC wish to work positively and

constructively with all parties and stakeholders to enable the community facilities provision to be delivered should permission be granted. The PCC hopes that this opportunity to develop this long disused site will not be jeopardised by further delay. A letter to that effect is expected however, at the time of writing the report, it has not been received and Committee will be updated verbally.

The Church forms part of the Jericho Wharf Trust, which was erroneously omitted from the original report to committee.

Community Centre/ Boatyard:

This section provides further information on the provision of the combined community facilities with respect to policy requirements, land transfer and s106 legal agreement and funding/ viability.

Policy SP7 states that a sustainably-sized community centre must be provided as part of the development and the SPD expands upon this and states:

"The expectation is that the portion of the Canalside site from the developer required for the new community centre will be transferred for a nil consideration.... The applicant/developer of the Canalside site will not be expected to construct the new community centre but will be expected to demonstrate that their land transferred is capable of accommodating the required facilities".

A draft S 106 legal agreement is in preparation to be signed by the Developer and City Council. This seeks to ensure a number of matters are achieved. This includes the transfer of the land from the applicant at a specified point to whoever will build out the community facilities, whether this is the JWT, JCA, Church or another future reiteration of the group of interested landowners/ parties or individuals, is referred to here as the Community Body. The Community Body chosen is likely to be nominated in this S106 agreement with the Developer, as in other similar S106 agreements where land has been transferred at nil cost. The Developer will also separately have to enter into legal agreements with this Body on other non-planning matters. The City Council is also likely to offer their garage site and small open space on Dawson Place to this Community Body.

Concern has been expressed as to how the actual construction of the combined community facilities building is achieved and secured, once the land is transferred. Furthermore, what would happen should the funding not be found. Much of this relies on the ability of the Community body, e.g. the Jericho Wharf Trust to raise/ secure funds and enter into agreement with the Developer. It is understood that the JWT would hope to raise funds from various sources including the City Council, public donations, major fund raising and grants.

Clearly this part of the site could remain undeveloped until such time as the full funding is reached, albeit part of the boatyard would be built (see below), and/or agreement reached with the Developer. Officers consider there are alternative cascade mechanisms that should be put in place in the S106 legal agreement to secure the future of this part of the site should the funding not be obtained by the

JWT or an alternative Community Body, including transfer of the land to the City Council itself.

Phasing of Development:

The S106 legal agreement would also secure triggers for construction/ phasing of the development and the Developer has stated that none of the residential units would be occupied until the public open space, works to the Canal, docks/ boatyard etc are completed. The only public works the Developer may not be able to deliver before the residential units are occupied is the bridge as the exact design and construction details of the bridge and of the Canal still need to be finalised and agreed with Canal and Rivers Trust, and this is likely to take time. The Developer has also agreed to offer for sale only to local Oxford residents for the first 6months, to enable the opportunity for the units to be available to the local market.

For completeness the S106 Heads of Terms are:

City:

- Affordable Housing: 40% all social rent (9 flats);
- Bridge & maintenance: Exact figures to be confirmed. Bridge fully automated with a call out mechanism in the event of mechanical failure, in conjunction with CRT as Landowner;
- Canal works (bank and winding hole (and boatyard docks)) in conjunction with CRT;
- Transfer of land to Community Body with cascade mechanisms to ensure community facilities provision;
- Public open space works and maintenance: by Applicant;
- Moorings: Replacement moorings will need to be created on the canal bank to the north of the Mount Place Bridge on the Western bank as a result of the new bridge, at Applicant's expense (which has been agreed);
- Dog bin and Sign: Contribution towards provision of dog litter bins and an information board at the Walton Well Road entrance to Port Meadow in order to comply with the Habitat Regulations and to mitigate the impact of the development. Applicant agreed, sum to be confirmed (indicative £1000);
- Triggers for construction/ phasing of the development; residential units not occupied until the construction of the public open space, works to the Canal, docks/ boatyard etc. has been completed.

County:

- Monitoring fees of £1240 for the Framework Travel Plan - other elements of the scheme may trigger additional fees if they are large enough to require individual travel plans;
- £1,000 for a new pole/flag/information case unit at the Canal Street Bus Stop (if required to be relocated);
- £5,000 to amend the existing Traffic Regulation Order (TRO) - to include changes to existing short stay parking bays in the area and the exclusion of the residential dwellings from parking permit eligibility.

Viability:

Since the Independent Viability Assessment was undertaken a recently completed residential development nearby on the former Grantham House site at Cranham Street has come onto the market. Officers therefore asked for further advice regarding comparability of Grantham House with the proposed development. The advice is attached at Appendix 1.

The Grantham House development is not a direct comparison as it comprises flats/ penthouses and not houses. However, the indicative values for sale at the Grantham House scheme fall within the value ranges for that indicated at Jericho Canalside. Whilst, therefore, exact details cannot be established to indicate the direct relevance as comparable evidence, the values detailed would suggest that the assumptions made in the Independent Assessment for the Jericho Canalside scheme appear to be robust. Therefore there is no change to the previous advice given regarding the overall viability and level of affordable housing the site/ development can support.

Impact on 13a Barnabas St:

A revised Daylight/ Sunlight Assessment with regard to 13a Barnabas Street has been received based floor plans for that property and again the review undertaken is based upon BRE Report 209, Site Layout Planning for Daylight and Sunlight - A Guide to Good Practice (2011 – 2nd Edition).

The Assessment shows that now only one bedroom at first floor level would see a reduction in daylight that would be noticeable to the occupants. The other bedroom is dual aspect and the result for the other window is satisfactory, and as such the impact is less. The BRE Report guidelines state that a 20% reduction in light is acceptable; this would result in slightly more at a 25% reduction.

The Assessment states that the recommendation within the BRE report is to exercise the guidelines flexibly. Due to the parameters stemming from suburban environments, when the site is in fact a denser, urban environment, the Consultants consider a 5% degree of flexibility to be satisfactory. The guidelines also state that room usage should be taken into consideration so this flexibility is further supported by the use of the room being a bedroom. The Assessment therefore concludes that the level of daylight received by 13a St Barnabas Street following the construction of the proposed development should remain acceptable.

The sunlight amenity results continue to meet the recommended criteria meaning that satisfactory levels of sunlight should remain to 13a St Barnabas Street. The shadow study confirms that the proposal is satisfactory; it does not impact upon the level of amenity received by this neighbouring property.

Officers accept the findings of the Assessment and acknowledge that some adverse impact would be felt by one of the bedrooms, which is an improvement on the previous Assessment. Whilst this would adversely affect the residential amenities of the occupiers contrary to Policy HP14, on balance, given the constraints of the site and the proposal as a whole and all other material considerations, an exception is justified in this case.

Flooding:

Finally, the Environment Agency has now commented on a revised FRA submitted to them, dated 09 January 2015. It has been confirmed that the revised bridge design will actually have less of an impact than the original submitted proposal and therefore the points of objection raised in its last response have been addressed and the objection on flood risk grounds can be withdrawn subject to the inclusion of a number of conditions relating to

1. Implement in accordance with revised FRA Rev C
2. Phased contamination risk assessment and remediation
3. Details of scheme to dispose of surface water

Officers therefore alter their recommendation to remove reference to the Environment Agency as follows:

West Area Planning Committee is recommended to support the proposal in principle subject to and including conditions listed in the Officers' main report, and delegate to Officers to issue the decision notice on completion of an accompanying legal agreement. If a legal agreement is not completed then committee is recommended to delegate Officers to refuse the planning application.

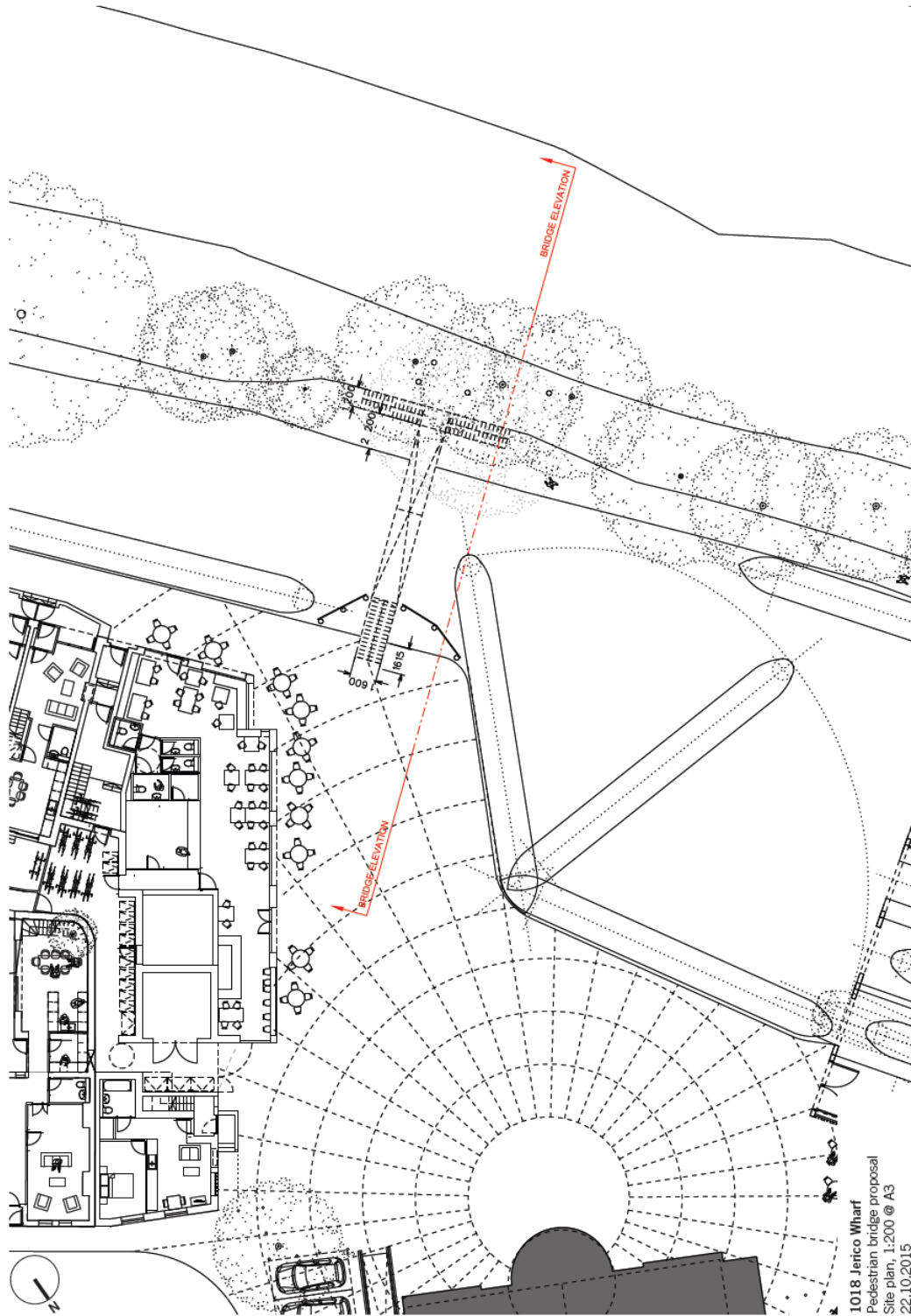
Recommendation: Committee is requested to note this additional information, and that the recommendations in the Officers' main reports remain otherwise unaltered.

Date: 29th January 2015

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Appendix B

Proposed location of second bridge



1018 Jerico Wharf
Pedestrian bridge proposal
Site plan, 1:200 @ A3
22.10.2015

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108. LAND AT JERICHO CANAL SIDE: 14/01441/FUL

The Head of City Development submitted a report (previously circulated now appended) which detailed an application to demolish various structures including former garages and workshops. Erection of 23 residential units (consisting of 13 x 3 bed and 1 x 4 bed house, plus 5 x 1 bed and 4 x 2 bed flats), together with new community centre, restaurant, boatyard, public square, winding hole and public bridge across the Oxford Canal. Demolition of existing rear extension and erection of two storey extension to Vicarage at 15 St. Barnabas Street and ramped access to church entrance.

The Planning Officer presented the report, she outlined the four further letters of representation received.

- Correspondence from the Jericho Wharf trust (JWT) who were seeking deferral until all the elements of the s106 agreement had been clarified;
- Agreement from the Canal and River Trust (CRT), as land owners, for the site of the proposed bridge.
- A letter from Price Waterhouse Copper on behalf of Spring Residential (in administration) in support of the proposal and
- A letter from St Barnabas PCC who confirmed their enthusiasm for the proposal and if their concerns regarding the bridge were allayed then they would support the proposal; they noted the officers' report regarding the level of affordable housing.

Dr Phyllis Starkey (Chair, Jericho Wharf Trust), Charlotte Christie (Chair, Jericho Community Association), Bruce Heagerty (Director, Jericho Community Boatyard), Henry Gibbon (St Barnabas Parochial Church Council), Adrian Arbib, Rukhsana Ali Moughal and Edward Surridge spoke against the application. Johnny Sandelson (the applicant) spoke in favour of the application. The applicant had offered a unilateral contribution of £150,000 towards the fund

raising to assist with the construction of the new community centre. The email confirming this contribution will be added to the planning portal on the council's website.

In answer to a Member question, Allison Blakeway (Evolution PDR Ltd) spoke on the viability issues of the site. No direct comparisons could be made as the canal site is quite unique however comparing a 'similar' residential development she had concluded that an indicative price would be between £430- 860 per sqft.

In answer to a Member question, Mr Sandelson confirmed his commitment to building the entirety of the boatyard and the chandlery building.

Officers were asked to negotiate with the applicant to seek a reduction in the height of the chandlery to mitigate the impact of excessive overshadowing and overbearing to the gardens of 7 and 9 Coombe Road; and to arrange a meeting between St Barnabas Parochial Church Council and the Canal and River Trust to discuss the bridge location.

The Committee requested a further report to agree the full completed legal agreement to include the following matters as changes to the draft terms of the s106 agreement:

Legal Agreement: Indicative S106 Heads of Terms:

City:

1. Affordable Housing: 40% all social rent (9 flats);
2. Bridge & maintenance: Exact figures to be confirmed. Bridge fully automated with a call out mechanism in the event of mechanical failure, in conjunction with CRT as Landowner;
3. Canal works (bank and winding hole (and boatyard docks)) in conjunction with CRT;
4. Transfer of land to Community Body to receive £150,000 unilateral contribution from applicant, with cascade mechanisms to ensure community

facilities provision. Jericho Wharf Trust to be preferred receiving body for unencumbered title to the land.

5. Public open space works, details of hard surfacing and street furniture and maintenance use and management strategy: by Applicant;

6. Moorings: Replacement moorings will need to be created on the canal bank to the north of the Mount Place Bridge on the Western bank as a result of the new bridge, at Applicant's expense (which has been agreed);

7. Dog bin and Sign: Contribution towards provision of dog litter bins and an information board at the Walton Well Road entrance to Port Meadow in order to comply with the Habitat Regulations and to mitigate the impact of the development. Applicant agreed, sum to be confirmed (indicative £1000);

8. Triggers for construction/ phasing of the development; residential units not occupied until the construction of the public open space, works to the Canal, docks/ boatyard etc. has been completed.

9. Restaurant site to revert to social affordable housing if restaurant usage fails.

County:

1. Monitoring fees of £1240 for the Framework Travel Plan - other elements of the scheme may trigger additional fees if they are large enough to require individual travel plans;

2. £1,000 for a new pole/flag/information case unit at the Canal Street Bus Stop (if required to be relocated);

3. £5,000 to amend the existing Traffic Regulation Order (TRO) - to include changes to existing short stay parking bays in the area and the exclusion of the residential dwellings from parking permit eligibility.

The Committee requested this report to also provide further information on:

- Outcome of talks with applicant over the chandlery design
- Outcome of meeting between St Barnabas Parochial Church Council and the

Canal and River Trust

The Committee also requested the details under the compliance application for Condition 28 – Landscape Management Plan is put to Committee for determination when submitted.

The Committee resolved to:

1. NOTE the additional information in the addendum report
2. SUPPORT the proposal in principle subject to and including the conditions listed below, and subject to the s106 agreement being agreed by the Committee and only once agreed to defer to Offices to issue the permission. If a legal agreement is not completed then Committee authorises Officers to refuse the planning application.

Conditions

1. Time – outline / reserved matters.
2. Plans – in accordance with approved plans.
3. Materials – samples agree prior to construction.
4. Contamination, phased risk assessment – prior to construction.
5. Strategy for control of dust and dirt from demolition and construction; prior to demolition.
6. Drainage Strategy & SUDS Strategy– Implement in accordance with DS & SUDS S. Further SUDs details required.
7. Biodiversity - 6 integrated bat roosting devices.
8. Biodiversity - A lighting scheme designed to minimise disturbance to foraging bats.
9. Biodiversity - Vegetation clearance will only take place outside of the bird nesting season or following an inspection from a suitably qualified ecologist and under guidance arising from that inspection.
10. Archaeology – Watching Brief - Prior to demolition/ Construction.

11. Public open Space; no parking; access only except in exceptional circumstances (e.g. deliveries, emergency services/ in conjunction with events).
12. Parking -Residents exclude from CPZ.
13. Parking layout in accordance with plan; for Church and disabled use only.
14. Deliveries Strategy for Community Centre/ Nursery/ Boatyard and Restaurant.
15. Construction Traffic Management Plan – details prior to construction.
16. Restaurant – Restrict opening hours: 09:00hrs to 22:30hrs Mon-Fri; 09:00hrs to 23:00hrs Saturday only; 09.00hrs to 22:00hrs Sundays.
17. Cycle & bin storage – further details.
18. Windows – obscure glazing, as on approved plans; at all times.
19. PD rights removed – houses.
20. NRIA – build in accordance with; provide further details of PV's (size, location), CHP prior to that phase of construction of development.
21. Details of boundary treatment prior to occupation inc. pre-school railings.
22. Vicarage – construct rear extension prior to restaurant/flats.
23. Vicarage – rear extension: first floor bathroom window obscure glazed, revised details of sitting room window to avoid overlooking.
24. Landscape plan – details required prior to substantial completion.
25. Landscape carried out.
26. Landscape Management Plan
27. Trees- hard surfaces –tree roots.
28. Trees -underground services –tree roots.
29. Trees - tree protection plan Prior Demolition.
30. Trees -Arboricultural Method statement – to include details of the suspended, cantilevered floor slab for the house at the southern end of the site which is

required to ensure that roots of trees that stand adjacent to the site within the ground of Worcester College are not damaged during construction.

31. Noise- details of air conditioning.

32. Noise- mechanical ventilation or associated plant.

33. Noise- restriction on noise in relation to neighbouring residential properties.

34. Noise- details of a scheme for treating cooking odours.

35. Noise - details of a management plan for the boatyard including how noise from operational procedures will be mitigated in practice.

36. Flooding -Implement in accordance with revised FRA Rev C

37. Phased contamination risk assessment and remediation

38. Details of scheme to dispose of surface water

39. Heritage - programme of architectural recording of the buildings and structures on the site by measurement, drawing and photography before work commences.

40. Heritage -architectural features and structures exposed by demolition and/or during the progress of the works shall be preserved in situ or relocated in accordance with submitted details, prior to demolition.

41. Heritage- a written scheme of investigation, details of architectural salvage prior to demolition.

42. Heritage - details of a scheme for protection of heritage assets during demolition and construction (hoarding etc) prior to demolition.

43. Details of visual improvements to the existing metal enclosure of the sub station

44. Detail of trellises on the south and western wall of 9 Coombe Road

Community Infrastructure Levy requirements

The CIL contribution will be £272,978.79.

THIS AGREEMENT by way of Deed is made on the day of2015

B E T W E E N:

1 (Insert names and addresses of all those with interests (not chargees/mortgagees) in the land to be bound (registered office and registration numbers for companies)) “the Owner”)

2 THE OXFORD CITY COUNCIL of The Town Hall Blue Boar Street Oxford OX1 4EY (“the City Council”)

3 (Insert names and addresses of all chargees/mortgagees in the land to be bound (registered office and registration numbers for companies)) “the Chargee”)

WHEREAS

1.1 The Owner is interested in land at [describe land (by reference to registered title is applicable)] (“the Land”) in the manner and to the extent set out in Schedule One hereto

1.2 The City Council is a local planning authority and the district planning authority for the administrative area of the City of Oxford for the purposes of the Town and Country Planning Act 1990 (“the Act”)

1.3 Application bearing reference [planning application number] (“the Application”) has been made to the City Council pursuant to Part III of the Act for planning permission to develop the Land by [description of development from planning application] (“the Development”)

1.4 The parties hereto have entered into this Agreement with the intent that its provisions be material to the determination of the Application

NOW THIS DEED WITNESSTH AS FOLLOWS

1 Interpretation

1.1 Save where contrary intention is shown the provisions of the Interpretation Act 1978 shall apply to the provisions hereof as if this Deed was an Act of Parliament

1.2 Save where contrary intention is shown the following expressions shall bear the following meanings herein

“Commencement of Development” means the date on which the Development permitted by the Permission is initiated within the meaning of section 56 of the Act and “commence”

“commencement” and similar expressions shall be construed accordingly

“Index” means

in relation to any sum referred to in Schedule Two the Halifax Price Index for the South East

in relation to any other sum herein the BCIS All-In Tender Price Index published in the Quarterly Review of Building Prices by the Royal Institution of Chartered Surveyors

“Permission” means planning permission granted in determination of the Application

2 Statutory Authority

2.1 All obligations hereunder on the part of the Owner [and the Chargee] (howsoever expressed) are planning obligations for the purposes of section 106 of the Act entered into in respect of its interest in the land as particularised in Schedule One hereto enforceable against the Owner and his successors in title the obligations being enforceable by the City Council

2.2 All and any obligations hereunder on the part of the City Council are contractual obligations personal to the Owner (and not to any successor in title to the Land or assignable to any other person) entered into pursuant to section 111 of the Local Government Act 1972

3 Obligations

3.1 The Owner covenants with the City Council to observe and perform the requirements contained in the Schedules hereof

4 Miscellaneous

4.1 All sums payable hereunder shall be exclusive of any value added tax properly payable

4.2 The Contracts (Right of Third Parties) Act 1999 shall not apply to any of the provisions of this Agreement

4.3 All sums payable hereunder shall be paid subject to indexation which shall mean that should the value of the Index as at the date of payment ("the Payment Date Value") exceed the value of the Index as at the date of this Agreement ("the Base Date Value") the sum to be paid shall be the sum specified hereunder multiplied by the Payment Date Value and divided by the Base Date Value

4.4 In the event of the Chargee exercising powers under or by virtue of his charge upon the Land as particularised in Schedule One hereof the Chargee and his successors in title shall become liable hereunder as if he were the Owner PROVIDED ALWAYS that he shall not otherwise be liable hereunder

4.5 If any sum payable to the City Council hereunder is not paid in full (including any increase in consequence of clause 4.3 above) on or before the due date interest shall be due and payable to the payee at the rate of 4% per annum above the base lending rate of Lloyds TSB Bank PLC compounded monthly for the period from the due date until payment of the full amount due as at the date of payment

4.6 No alteration in the terms of this Agreement nor any forbearance or forgiveness on the part of the City Council in or in the extent or nature of any matter or thing concerning this Agreement shall in any way release the Owner from any liability hereunder

4.7 Nothing in this Agreement shall prejudice or affect the rights powers duties and obligations of the City Council in the exercise of its functions in any capacity

4.8 Where more than one person is liable under any provision hereof the liability shall be joint and several

4.9 All notifications approvals permissions consents or similar hereunder shall be in writing

4.10 The Owner shall permit the City Council full access to the land (save for buildings in residential or commercial occupation to which access shall be permitted on not less than 24 hours written notice) for any purpose in connection with this Agreement

IN WITNESS whereof the parties have executed this Agreement as a deed on the day and year first before written

EXECUTED AS A DEED by.....

Schedule One

[Set out land ownership details (freehold and leasehold if relevant) including charges

If there are multiple parcels of land with differing ownerships deal with each separately by reference to the plan]

Schedule Two

Affordable Housing – on site provision

1 The Owner shall not cause or permit the Commencement or continuance of the Development prior to obtaining the written agreement of the City Council to a scheme for the provision of 9 of the dwellings within the Development (units [IDENTIFY UNITS] as shown on dwg no [IDENTIFY DWG NO] as Affordable Housing (“the Affordable Housing Scheme”) such scheme to provide

1.1 that each of the dwellings comprising the Affordable Housing is social rented housing complying with the definition in the glossary to the Sites and Housing Local Plan (February 2013) (“Social Rented Housing”) providing that

[X] of the Affordable Housing shall be 1 bedroom (2 person) Social Rented Housing comprising units [XXXXXX]

[9-X] of the Affordable Housing shall be 2 bedroom (4 person) Social Rented Housing comprising units [XXXXXX]

and showing that at least one of the dwellings comprising the Affordable Housing will be fully wheelchair accessible, or of a design that allows future adaptation to become fully wheelchair accessible.

1.2 the contractual arrangements with a registered provider of social housing within the meaning of the Housing and Regeneration Act 2008 (including for the avoidance of doubt the City Council) (“Registered Provider”) for the delivery (both construction and for grant of lease (including form of proposed lease) of not less than 125 years) of the Affordable Housing including a copy of such completed contract certified as a true copy by a solicitor

1.3 the servicing arrangements of the Affordable Housing and the allocation of responsibility for such servicing and the cost of such servicing

2 In the event that the Registered Provider is not the City Council the Owner shall not cause or permit the Commencement or continuance of the Development prior to that Registered Proprietor having entered into a framework agreement applicable to the Affordable Housing to be provided hereunder with the City Council for partnership working in relation to the operation of a shared register of people in need of Affordable Housing in the administrative area of the City Council and the allocation of Social Rented Housing

3 The Owner shall not cause or permit the occupation of more than seven of the dwellings (excluding those specified as Affordable Housing) authorised by the Permission until

3.1 Six of the dwellings comprising the Affordable Housing have been fully constructed and are finished ready for immediate residential occupation in accordance with the Affordable Housing Scheme and

3.2 (as regards those six dwellings) the leasehold interest of those dwellings comprised within the Affordable Housing have been transferred to the Registered Provider such grant to be prepared by solicitors instructed by the Owner and at the cost of the Owner in substantially the form of that referred to in paragraph 1.2 above

4 The Owner shall not cause or permit the occupation of more than ten of the dwellings (excluding those specified as Affordable Housing) authorised by the Permission until

4.1 all nine of the dwellings comprising the Affordable Housing have been fully constructed and are finished ready for immediate residential occupation in accordance with the Affordable Housing Scheme and

4.2 (as regards those nine dwellings) the leasehold interest of those dwellings comprised within the Affordable Housing have been transferred to the Registered Provider such grant to be prepared by solicitors instructed by the Owner and at the cost of the Owner in substantially the form of that referred to in paragraph 1.2 above

5 The Owner will procure that all dwellings comprised within the Affordable Housing shall

5.1 meet all requirements of Homes and Community Agency Design Quality Standards and Housing Quality Indicators that (were that Agency funding their provision) would be applicable to them

5.2 comply with Lifetime Homes standards then applicable

5.3 show compliance with Secure By Design standards then applicable

6 The Owner shall not cause permit or allow occupation of any dwelling comprised within the Affordable Housing other than as Social Rented Housing in accordance with the Affordable Housing Scheme

7 The Owner shall not commence the Development prior to paying to the City Council the sum of £2,000 in respect of the monitoring and administration of the affordable housing requirements

Schedule Three

Matters other than Affordable Housing

1 The costs of the City Council

1.1 The Owner shall pay to the City Council on completion of this Agreement the legal costs of the City Council in connection with the preparation and completion of this Agreement

1.2 The Owner shall pay to the City Council on completion of this Agreement the sum of [XXXXX] being a contribution towards the costs of the City Council in connection with the administration and management of this Agreement (including the payments further to this Agreement) [Calculated as per SPD]

2 Restaurant

2.1 The land shown edged green on the plan shall not be used other than as a restaurant or (subject to the grant of any required planning permission) Social Rented Housing

3 Notifications

3.1 The Owner shall not cause or permit the commencement or continuance of the Development unless the Owner has given notice of commencement of the Development to the City Council such notice specifying the intended date for commencement

3.2 The Owner shall give notice to the City Council of any disposal of his interest in the Land (or part thereof) or any other event giving rise to a successor in title (other than disposals of individual dwellings) providing the name and address of that successor the date of disposal and a plan identifying the land affected such notice to be provided within 14 days of the disposal or other event giving rise to a successor in title

3.3 On each anniversary of Commencement of Development until completion of the Development the Owner shall give notice to the City Council identifying the extent to which the Development has been executed

4 Bridge

4.1 The Owner shall not cause or permit the Commencement or continuance of the Development unless the written approval of the City Council has been obtained for a scheme ("the Bridge Scheme") for the provision of a fully automated lifting bridge ("the Bridge") across the canal in the approximate position shown marked on the plan annexed hereto such scheme to provide for consultation and approval of the item or items comprising the Bridge (including design appearance materials and location) commissioning execution of all required works for the item or items comprising the bridge and subsequent maintenance (and call out arrangements in the event of mechanical failure) including a timetable for each stage by reference to time from Commencement of Development and/or prior to the commencement/completion/occupation of specified elements of the Development

4.2 The Owner shall ensure that the approved scheme referred to in paragraph 4.1 above is executed in its entirety to the satisfaction of the City Council and shall notify the Council of the completion of each distinct element

4.3 In the event that there is an extant breach of the approved scheme referred to in paragraph 4.1 above the Owner shall not cause or permit any further works for the execution of the Development or the occupation of any part of the Development not previously occupied

4.4 The Owner shall maintain the Bridge in accordance with the Bridge Scheme

5 Public Open Space

5.1 The Owner shall not cause or permit the Commencement or continuance of the Development prior to obtaining the written approval of the City Council to a public open space scheme in accordance with the scheme shown on [DWG NO] such scheme to provide

5.1.1 the locations and details of each area of amenity and/or recreational open space (providing specifications of equipment where equipment is proposed) proposed within the Land as part of the Development sufficient to ensure that the needs of all those likely to use the Development will be met

5.1.2 a timetable for the provision of each and every element by reference to such element being available for functional public use to the satisfaction of the City Council either prior to a defined part of the Development being commenced or occupied for the purpose permitted by the Permission

5.2 The Owner shall comply fully with all aspects of the approved scheme referred to in paragraph 5.1 above and shall notify the City Council of each and every element of the approved scheme referred to in paragraph 5.1 above first being made available for public use

5.3 The Owner shall in respect of each and every element of the approved scheme referred to in paragraph 5.1 above from the date on which it is first made available for public use

5.3.1 keep it available for free public use at all times restricting public access only as may be required by law or as otherwise agreed in advance in writing with the City Council

5.3.2 maintain it such that it does not materially deteriorate

5.4 The Owner shall not cause or permit the commencement or carrying on of any works for the provision of any element of the approved scheme referred to in paragraph 5.1 above prior to obtaining the written approval of the City Council to a mechanism to ensure future compliance with the obligations of the Owner pursuant to paragraphs 5.3.1 and 5.3.2 above.

5.5 In the event that there is an extant breach of the approved scheme referred to in paragraph 5.1 above the Owner shall not cause or permit any further works for the execution of the Development or the occupation of any part of the Development not previously occupied

6 Canal Works [ARE THESE WORKS SHOWN ON A DWG?]

6.1 The Owner shall not cause or permit the Commencement or continuance of the Development prior to obtaining the written approval of the City Council to a scheme ("the Canal Works Scheme")

for the provision of a winding hole capable of providing a turning area for boats of up to 22 metres in length improvement works to the canal edge and the provision of replacement moorings in consequence of the provision of the Bridge (“the Canal Works”) such scheme to provide

6.1.1 the locations and details of each element of the works comprised within the Canal Works

6.1.2 a timetable for the provision of each and every element by reference to such element being completed to the satisfaction of the City Council either prior to a defined part of the Development being commenced or occupied for the purpose permitted by the Permission

6.1.3 post completion maintenance and protection arrangements

6.2 The Owner shall comply fully with all aspects of the Canal Works Scheme referred to in paragraph 6.1 above to the satisfaction of the City Council and shall notify the City Council of each and every element of the approved scheme referred to in paragraph 6.1 above being completed

6.3 In the event that there is an extant breach of Canal Works Scheme the Owner shall not cause or permit any further works for the execution of the Development or the occupation of any part of the Development not previously occupied

6.4 The Owner shall protect and maintain the Canal Works in accordance with the Canal Works Scheme

7 Dog Bin and Sign

7.1 The Owner shall not cause or permit the Commencement or continuance of the Development prior to paying to the City Council the sum of [XXXXX ?£1000?] as a contribution to the cost of dog litter bins and an information board at the Walton Well Road entrance to Port Meadow

8 Community Centre / Boatyard

8.1 The Owner shall not cause or permit the Commencement or continuance of the Development prior to offering to transfer the land shown edged red and particularised on dwg no [XXXXX] (“the Community Centre Drawing”) annexed hereto (“the Community Centre Land”) to the Jericho Wharf Trust [check legal persona] such offer to remain open for acceptance for three months

8.2 In the event that the offer referred to in paragraph 8.1 above is not accepted

8.2.1 within three months of the Commencement of the Development the Owner shall not continue the Development more than four months after commencement unless and until he has submitted the names of alternative potential transferees (up to three of the Community Centre Land

8.2.2 within 14 days of the City Council given written notice approving any one or more of those potential transferees the Owner shall offer to transfer the Community Centre Land to one of those approved potential transferees such offer to remain open for acceptance for three months

8.3 The Owner shall not cause or permit the residential occupation of any part of the Development prior to the transfer of the Community Centre Land to the Jericho Wharf Trust to any transferee approved under paragraph 8.2 above or to the City Council

8.4 Any transfer (and offer to transfer) under this paragraph 8 shall

8.4.1 be in respect of the entirety of the Community Centre Land

8.4.2 be for the consideration of one pound

8.4.3 grant to the transferee (which expression includes successors in title) all reasonably necessary rights to allow the Community Centre Land to be built out as proposed on the Community Centre Drawing ("the Community Centre Development") and thereafter used for its design purpose as set out on that drawing ("the Community Centre Use")

8.4.4 include an obligation on the part of the transferor (which expression includes successors in title) to construct all foundations and other supporting structures including (without limitation) the boatyard roof slab as shown on the Community Centre Drawing

8.4.5 include an obligation on the part of the transferor to provide service media as specified on the Community Centre Drawing to points of entry to the Community Centre Land at the points identified on that drawing

8.4.6 include an obligation on the part of the transferor to construct such of the Development (and thereafter maintain such that it does not materially deteriorate) as is necessary to allow for the execution of the Community Centre Development and thereafter the Community Centre Use no later than 18 months from the Commencement of Development

8.4.7 be with vacant possession and without any encumbrance adversely affecting the ability of the transferee to execute the Community Centre Development and conduct the Community Centre Use

8.4.8 provide for a payment of One Hundred and Fifty Thousand Pounds from the transferor to the transferee upon transfer

THIS AGREEMENT by way of Deed is made on the day of2015

B E T W E E N:

1 (Insert names and addresses of all those with interests (not chargees/mortgagees) in the land to be bound (registered office and registration numbers for companies)) “the Owner”

2 THE OXFORD CITY COUNCIL of The Town Hall Blue Boar Street Oxford OX1 4EY (“the City Council”)

3 (Insert names and addresses of all chargees/mortgagees in the land to be bound (registered office and registration numbers for companies)) “the Chargee”

CAPITAL LAW COMMENT: Query whether or not JWT should be a party to the section 106 Agreement – Michael Morgan does not consider this to be the case, but given the provisions of paragraph 8 it may be justified.

CAPITAL LAW COMMENT: Does the Canals and Rivers Trust need to be a party (for at least the purposes of paragraph 6. Council to confirm that CRT have been/will be consulted in respect of the Section 106 Agreement.

WHEREAS

1.1 The Owner is interested in land at [describe land (by reference to registered title is applicable)] (“the Land”) in the manner and to the extent set out in Schedule One hereto

1.2 The City Council is a local planning authority and the district planning authority for the administrative area of the City of Oxford for the purposes of the Town and Country Planning Act 1990 (“the Act”)

1.3 Application bearing reference [planning application number] (“the Application”) has been made to the City Council pursuant to Part III of the Act for planning permission to develop the Land by [description of development from planning application] (“the Development”)

1.4 The parties hereto have entered into this Agreement with the intent that its provisions be material to the determination of the Application

NOW THIS DEED WITNESSTH AS FOLLOWS

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“Commencement of Development” means the date on which the Development permitted by the Permission is initiated within the meaning of section 56 of the Act and “commence”

“commencement” and similar expressions shall be construed accordingly

“Index” means

in relation to any sum referred to in Schedule Two the Halifax Price Index for the South East

in relation to any other sum herein the BCIS All-In Tender Price Index published in the Quarterly Review of Building Prices by the Royal Institution of Chartered Surveyors

“Permission” means planning permission granted in determination of the Application

CAPITAL LAW COMMENT: NB: a copy of the draft planning permission should be annexed to the section 106 agreement and JWT would want to see and comment upon this.

2 Statutory Authority

2.1 All obligations hereunder on the part of the Owner [and the Chargee] (howsoever expressed) are planning obligations for the purposes of section 106 of the Act entered into in respect of its interest in the land as particularised in Schedule One hereto enforceable against the Owner and his successors in title the obligations being enforceable by the City Council

2.2 All and any obligations hereunder on the part of the City Council are contractual obligations personal to the Owner (and not to any successor in title to the Land or assignable to any other person) entered into pursuant to section 111 of the Local Government Act 1972

3 Obligations

3.1 The Owner covenants with the City Council to observe and perform the requirements contained in the Schedules hereof

4 Miscellaneous

4.1 All sums payable hereunder shall be exclusive of any value added tax properly payable

4.2 The Contracts (Right of Third Parties) Act 1999 shall not apply to any of the provisions of this Agreement

4.3 All sums payable hereunder shall be paid subject to indexation which shall mean that should the value of the Index as at the date of payment (“the Payment Date Value”) exceed the value of the Index as at the date of this Agreement (“the Base Date Value”) the sum to be paid shall be the sum specified hereunder multiplied by the Payment Date Value and divided by the Base Date Value

CAPITAL LAW COMMENT: This should also apply to the £150,000 being paid by the Developer

4.4 In the event of the Chargee exercising powers under or by virtue of his charge upon the Land as particularised in Schedule One hereof the Chargee and his successors in title shall become liable hereunder as if he were the Owner PROVIDED ALWAYS that he shall not otherwise be liable hereunder

4.5 If any sum payable to the City Council hereunder is not paid in full (including any increase in consequence of clause 4.3 above) on or before the due date interest shall be due and payable to the payee at the rate of 4% per annum above the base lending rate of Lloyds TSB Bank PLC compounded monthly for the period from the due date until payment of the full amount due as at the date of payment

4.6 No alteration in the terms of this Agreement nor any forbearance or forgiveness on the part of the City Council in or in the extent or nature of any matter or thing concerning this Agreement shall in any way release the Owner from any liability hereunder

4.7 Nothing in this Agreement shall prejudice or affect the rights powers duties and obligations or the City Council in the exercise of its functions in any capacity

4.8 Where more than one person is liable under any provision hereof the liability shall be joint and several

4.9 All notifications approvals permissions consents or similar hereunder shall be in writing

4.10 The Owner shall permit the City Council full access to the land (save for buildings in residential or commercial occupation to which access shall be permitted on not less than 24 hours written notice) for any purpose in connection with this Agreement

IN WITNESS whereof the parties have executed this Agreement as a deed on the day and year first before written

EXECUTED AS A DEED by.....

Schedule One

[Set out land ownership details (freehold and leasehold if relevant) including charges

If there are multiple parcels of land with differing ownerships deal with each separately by reference to the plan]

CAPITAL LAW COMMENT: exact landholding to be confirmed

CAPITAL LAW COMMENT: The Agreement is unclear how existing land ownership rights are going to be incorporated in particular relating to the Dawson Place Land (owned by OCC); land owned by the Church etc. The timing of the delivery of these parcels and to whom (assume JWT if they form part of the public open space; the Developer if not) and how such mechanism will work needs to be considered.

Schedule Two

Affordable Housing – on site provision

1 The Owner shall not cause or permit the Commencement or continuance of the Development prior to obtaining the written agreement of the City Council to a scheme for the provision of 9 of the dwellings within the Development (units [IDENTIFY UNITS] as shown on dwg no [IDENTIFY DWG NO] as Affordable Housing (“the Affordable Housing Scheme”) such scheme to provide

1.1 that each of the dwellings comprising the Affordable Housing is social rented housing complying with the definition in the glossary to the Sites and Housing Local Plan (February 2013) (“Social Rented Housing”) providing that

[X] of the Affordable Housing shall be 1 bedroom (2 person) Social Rented Housing comprising units [XXXXXX]

[9-X] of the Affordable Housing shall be 2 bedroom (4 person) Social Rented Housing comprising units [XXXXXX]

and showing that at least one of the dwellings comprising the Affordable Housing will be fully wheelchair accessible, or of a design that allows future adaptation to become fully wheelchair accessible.

1.2 the contractual arrangements with a registered provider of social housing within the meaning of the Housing and Regeneration Act 2008 (including for the avoidance of doubt the City Council) (“Registered Provider”) for the delivery (both construction and for grant of lease (including form of proposed lease) of not less than 125 years) of the Affordable Housing including a copy of such completed contract certified as a true copy by a solicitor

1.3 the servicing arrangements of the Affordable Housing and the allocation of responsibility for such servicing and the cost of such servicing

2 In the event that the Registered Provider is not the City Council the Owner shall not cause or permit the Commencement or continuance of the Development prior to that Registered Proprietor having entered into a framework agreement applicable to the Affordable Housing to be provided

hereunder with the City Council for partnership working in relation to the operation of a shared register of people in need of Affordable Housing in the administrative area of the City Council and the allocation of Social Rented Housing

3 The Owner shall not cause or permit the occupation of more than seven of the dwellings (excluding those specified as Affordable Housing) authorised by the Permission until

3.1 Six of the dwellings comprising the Affordable Housing have been fully constructed and are finished ready for immediate residential occupation in accordance with the Affordable Housing Scheme and

3.2 (as regards those six dwellings) the leasehold interest of those dwellings comprised within the Affordable Housing have been transferred to the Registered Provider such grant to be prepared by solicitors instructed by the Owner and at the cost of the Owner in substantially the form of that referred to in paragraph 1.2 above

4 The Owner shall not cause or permit the occupation of more than ten of the dwellings (excluding those specified as Affordable Housing) authorised by the Permission until

4.1 all nine of the dwellings comprising the Affordable Housing have been fully constructed and are finished ready for immediate residential occupation in accordance with the Affordable Housing Scheme and

4.2 (as regards those nine dwellings) the leasehold interest of those dwellings comprised within the Affordable Housing have been transferred to the Registered Provider such grant to be prepared by solicitors instructed by the Owner and at the cost of the Owner in substantially the form of that referred to in paragraph 1.2 above

5 The Owner will procure that all dwellings comprised within the Affordable Housing shall

5.1 meet all requirements of Homes and Community Agency Design Quality Standards and Housing Quality Indicators that (were that Agency funding their provision) would be applicable to them

5.2 comply with Lifetime Homes standards then applicable

5.3 show compliance with Secure By Design standards then applicable

6 The Owner shall not cause permit or allow occupation of any dwelling comprised within the Affordable Housing other than as Social Rented Housing in accordance with the Affordable Housing Scheme

7 The Owner shall not commence the Development prior to paying to the City Council the sum of £2,000 in respect of the monitoring and administration of the affordable housing requirements

Schedule Three

Matters other than Affordable Housing

1 The costs of the City Council

1.1 The Owner shall pay to the City Council on completion of this Agreement the legal costs of the City Council in connection with the preparation and completion of this Agreement

1.2 The Owner shall pay to the City Council on completion of this Agreement the sum of [XXXXX] being a contribution towards the costs of the City Council in connection with the administration and management of this Agreement (including the payments further to this Agreement) [Calculated as per SPD]

2 Restaurant

2.1 The land shown edged green on the plan shall not be used other than as a restaurant or (subject to the grant of any required planning permission) Social Rented Housing

CAPITAL LAW COMMENT: query what part of the property does this affect?

3 Notifications

3.1 The Owner shall not cause or permit the commencement or continuance of the Development unless the Owner has given notice of commencement of the Development to the City Council such notice specifying the intended date for commencement

3.2 The Owner shall give notice to the City Council of any disposal of his interest in the Land (or part thereof) or any other event giving rise to a successor in title (other than disposals of individual dwellings) providing the name and address of that successor the date of disposal and a plan identifying the land affected such notice to be provided within 14 days of the disposal or other event giving rise to a successor in title

3.3 On each anniversary of Commencement of Development until completion of the Development the Owner shall give notice to the City Council identifying the extent to which the Development has been executed

4 Bridge

CAPITAL LAW COMMENT: Whilst not a matter for JWT I imagine the Developer will need to agree this with the CRT. As a general comment the parties need to ensure that this is deliverable.

4.1 The Owner shall not cause or permit the Commencement or continuance of the Development unless the written approval of the City Council has been obtained for a scheme ("the Bridge Scheme") for the provision of a fully automated lifting bridge ("the Bridge") across the canal in the approximate position shown marked on the plan annexed hereto such scheme to provide for

consultation and approval of the item or items comprising the Bridge (including design appearance materials and location) commissioning execution of all required works for the item or items comprising the bridge and subsequent maintenance (and call out arrangements in the event of mechanical failure) including a timetable for each stage by reference to time from Commencement of Development and/or prior to the commencement/completion/occupation of specified elements of the Development

4.2 The Owner shall ensure that the approved scheme referred to in paragraph 4.1 above is executed in its entirety to the satisfaction of the City Council and shall notify the Council of the completion of each distinct element

4.3 In the event that there is an extant breach of the approved scheme referred to in paragraph 4.1 above the Owner shall not cause or permit any further works for the execution of the Development or the occupation of any part of the Development not previously occupied

4.4 The Owner shall maintain the Bridge in accordance with the Bridge Scheme

5 Public Open Space

CAPITAL LAW COMMENT: The expectation of JWT is that the public open space is transferred to it together with all obligations relating to the maintenance and management of the same.

Either this can be dealt with in the same manner as Paragraph 8 by it being offered to JWT or will require direct negotiation with the Developer.

5.1 The Owner shall not cause or permit the Commencement or continuance of the Development prior to obtaining the written approval of the City Council to a public open space scheme in accordance with the scheme shown on [DWG NO] such scheme to provide

CAPITAL LAW COMMENT: If this land is to be transferred to JWT then JWT will need to be at the very least consulted upon in respect of the public open space scheme.

5.1.1 the locations and details of each area of amenity and/or recreational open space (providing specifications of equipment where equipment is proposed) proposed within the Land as part of the Development sufficient to ensure that the needs of all those likely to use the Development will be met

CAPITAL LAW COMMENT: Details of these will need to be provided and agreed. query whether or not this process should be part of the section 106 arrangements.

5.1.2 a timetable for the provision of each and every element by reference to such element being available for functional public use to the satisfaction of the City Council either prior to a defined part of the Development being commenced or occupied for the purpose permitted by the Permission

CAPITAL LAW COMMENT: Again full details to be agreed as above.

5.2 The Owner shall comply fully with all aspects of the approved scheme referred to in paragraph 5.1 above and shall notify the City Council of each and every element of the approved scheme referred to in paragraph 5.1 above first being made available for public use

CAPITAL LAW COMMENT: as above

5.3 The Owner shall in respect of each and every element of the approved scheme referred to in paragraph 5.1 above from the date on which it is first made available for public use

5.3.1 keep it available for free public use at all times restricting public access only as may be required by law or as otherwise agreed in advance in writing with the City Council

CAPITAL LAW COMMENT: JWT to note requirement

5.3.2 maintain it such that it does not materially deteriorate

CAPITAL LAW COMMENT: JWT to note requirement

5.4 The Owner shall not cause or permit the commencement or carrying on of any works for the provision of any element of the approved scheme referred to in paragraph 5.1 above prior to obtaining the written approval of the City Council to a mechanism to ensure future compliance with the obligations of the Owner pursuant to paragraphs 5.3.1 and 5.3.2 above.

CAPITAL LAW COMMENT: JWT to note that this may fall to them if they take a transfer of the public open space. Further details of what the Council require for this mechanism is required in order to be able to comply with the requirement.

5.5 In the event that there is an extant breach of the approved scheme referred to in paragraph 5.1 above the Owner shall not cause or permit any further works for the execution of the Development or the occupation of any part of the Development not previously occupied

CAPITAL LAW COMMENT: There will need to be co-operation between JWT and the Developer in respect of this requirement. Query how this "gap" is bridged.

6 Canal Works [ARE THESE WORKS SHOWN ON A DWG?]

CAPITAL LAW COMMENT: Unless specified later in paragraph 8 the detailed commitment to build the boatyard and chandlery needs to either appear in full in this paragraph. As with Paragraph 5 the assumption is the CRT will need to be fully consulted in respect of these obligations.

6.1 The Owner shall not cause or permit the Commencement or continuance of the Development prior to obtaining the written approval of the City Council to a scheme ("the Canal Works Scheme") for the provision of a winding hole capable of providing a turning area for boats of up to 22 metres in length improvement works to the canal edge and the provision of replacement moorings in consequence of the provision of the Bridge ("the Canal Works") such scheme to provide

6.1.1 the locations and details of each element of the works comprised within the Canal Works

6.1.2 a timetable for the provision of each and every element by reference to such element being completed to the satisfaction of the City Council either prior to a defined part of the Development being commenced or occupied for the purpose permitted by the Permission

6.1.3 post completion maintenance and protection arrangements

CAPITAL LAW COMMENT: JWT will need to check whether or not any of these obligations end up with them as part of the transfer of Community Space

6.2 The Owner shall comply fully with all aspects of the Canal Works Scheme referred to in paragraph 6.1 above to the satisfaction of the City Council and shall notify the City Council of each and every element of the approved scheme referred to in paragraph 6.1 above being completed

6.3 In the event that there is an extant breach of Canal Works Scheme the Owner shall not cause or permit any further works for the execution of the Development or the occupation of any part of the Development not previously occupied

6.4 The Owner shall protect and maintain the Canal Works in accordance with the Canal Works Scheme

CAPITAL LAW COMMENT: There will need to be co-operation between JWT and the Developer in respect of this requirement. Query how this "gap" is bridged.

7 Dog Bin and Sign

7.1 The Owner shall not cause or permit the Commencement or continuance of the Development prior to paying to the City Council the sum of [XXXXX ?£1000?] as a contribution to the cost of dog litter bins and an information board at the Walton Well Road entrance to Port Meadow

8 Community Centre / Boatyard

CAPITAL LAW COMMENT: there does not appear to be any obligation on the Developer to construct the boatyard to roof level and chandlery building (unless this falls within the works under paragraph 6).

8.1 The Owner shall not cause or permit the Commencement or continuance of the Development prior to offering to transfer the land shown edged red and particularised on dwg no [XXXXX] ("the Community Centre Drawing") annexed hereto ("the Community Centre Land") to the Jericho Wharf Trust [check legal persona] such offer to remain open for acceptance for three months

CAPITAL LAW COMMENT: Whether or not three months is sufficient time needs to be considered. Seems too short.

Further there is no indication of when the transfer is to take place (although provisions of 8.3 are noted).

8.2 In the event that the offer referred to in paragraph 8.1 above is not accepted

8.2.1 within three months of the Commencement of the Development the Owner shall not continue the Development more than four months after commencement unless and until he has submitted the names of alternative potential transferees (up to three of the Community Centre Land

CAPITAL LAW COMMENT: Query why should the Developer nominate the alternative transferee rather than OCC?

8.2.2 within 14 days of the City Council given written notice approving any one or more of those potential transferees the Owner shall offer to transfer the Community Centre Land to one of those approved potential transferees such offer to remain open for acceptance for three months

CAPITAL LAW COMMENT: JWT to note

8.3 The Owner shall not cause or permit the residential occupation of any part of the Development prior to the transfer of the Community Centre Land to the Jericho Wharf Trust to any transferee approved under paragraph 8.2 above or to the City Council

CAPITAL LAW COMMENT: this would allow the residential element of the scheme to be built first. Perhaps this should be prior to implementation rather than occupation. It could then allow for development obligations to be agreed between the Developer and JWT to be agreed and implemented.

8.4 Any transfer (and offer to transfer) under this paragraph 8 shall

CAPITAL LAW COMMENT: I would prefer for the form of Transfer to be drafted ahead and appended to the Section 106 (subject to such reasonable modifications). Otherwise it is going to make it difficult for JWT to accept an offer if the obligations/covenants/rights in the form of Transfer are not drafted and negotiated. Need to avoid a situation of an agreement to agree.

8.4.1 be in respect of the entirety of the Community Centre Land

CAPITAL LAW COMMENT: this will need to be clearly defined with reference to a plan.

8.4.2 be for the consideration of one pound

CAPITAL LAW COMMENT: should be fine – need to check SDLT effect.

8.4.3 grant to the transferee (which expression includes successors in title) all reasonably necessary rights to allow the Community Centre Land to be built out as proposed on the Community Centre Drawing (“the Community Centre Development”) and thereafter used for its design purpose as set out on that drawing (“the Community Centre Use”)

CAPITAL LAW COMMENT: these rights need to be clearly drafted and understood.

8.4.4 include an obligation on the part of the transferor (which expression includes successors in title) to construct all foundations and other supporting structures including (without limitation) the boatyard roof slab as shown on the Community Centre Drawing

CAPITAL LAW COMMENT: this obligation does not sit very well in a Land Registry transfer. It could be done by having a development schedule, but the drafting may prove complex. It would be more suitable to sit in a Development Agreement.

There are numerous elements to be considered including for example

If the land has been transferred prior to these works then JWT would have to grant a licence to occupy.

The Developer needs to provide warranties and allow step in rights for JWT under a building contract

8.4.5 include an obligation on the part of the transferor to provide service media as specified on the Community Centre Drawing to points of entry to the Community Centre Land at the points identified on that drawing

CAPITAL LAW COMMENT: as above – this is better suited in a Development Agreement

8.4.6 include an obligation on the part of the transferor to construct such of the Development (and thereafter maintain such that it does not materially deteriorate) as is necessary to allow for the execution of the Community Centre Development and thereafter the Community Centre Use no later than 18 months from the Commencement of Development

CAPITAL LAW COMMENT: as above – this is better suited in a Development Agreement

8.4.7 be with vacant possession and without any encumbrance adversely affecting the ability of the transferee to execute the Community Centre Development and conduct the Community Centre Use

CAPITAL LAW COMMENT: again if the form of Transfer was agreed in advance then it would be easier to

8.4.8 provide for a payment of One Hundred and Fifty Thousand Pounds from the transferor to the transferee upon transfer

CAPITAL LAW COMMENT: should be index linked, Query – should this not be paid on completion of the Section 106 Agreement.

DATED _____ 2015

(1) ~~???~~CHEER TEAM CORPORATION LIMITED

~~-and-~~

~~(2) THE OXFORD CITY COUNCIL~~

- and -

~~(3) ???~~

(2) THE OXFORD CITY COUNCIL

SECTION 106 AGREEMENT

relating to

Land at Jericho, Oxford



**PENNINGTONS
MANCHES**

DX:155710 Oxford 13

Ref: NDO/RAS/ELV/3500033

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SECTION 106 AGREEMENT

Dated:

2015

Parties

- (1) ~~???~~CHEER TEAM CORPORATION LIMITED a company incorporated in ~~[country of incorporation]~~ Hong Kong with Company Number 1890409 whose registered office ~~/ principal place of business~~ is at ~~???~~ is situated at 11/F Johnson Industrial Mansion, 340 Kwun Tong Road, Kowloon Hong Kong ("the Owner"); and
- (2) THE OXFORD CITY COUNCIL ~~a company incorporated in [country of incorporation]~~ is at ~~of~~ The Town Hall, Blue Boar Street, Oxford OX1 4EY ("the City Council"); and
- (3) ~~???~~ ~~a company incorporated in [country of incorporation]~~ is at ~~???~~ ~~(“the Chargee”).~~

WHEREAS

- (A) The Owner is interested in land at [describe land (by reference to registered title is applicable)] ("the Land") in the manner and to the extent set out in Schedule One hereto.
- (B) The City Council is a local planning authority and the district planning authority for the administrative area of the City of Oxford for the purposes of the ~~Town and Country Planning Act 1990 (“the Act”)~~ being the area in which the Land is situated.
- (C) Application bearing reference [planning application number] ("the Application") has been made to the City Council pursuant to Part III of the Act for planning permission to develop the Land by [description of development from planning application] ("the Development").
- (D) The parties hereto have entered into this Agreement with the intent that its provisions be material to the determination of the Application.

1. Definitions and Interpretation

- 1.1 Save where contrary intention is shown the following expressions shall bear the following meanings herein:

<u>Act</u>	<u>Town and Country Planning Act 1990;</u>
Commencement of Development	means the date on which <u>any material operation (as defined in Section 56(4) of the Act) forming part of the Development permitted by the Permission is initiated within the meaning of section 56 of the Act and “commence”</u> begins to be carried out other than (for the purposes of this Agreement and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and “Commence Development” shall be construed accordingly;
<u>Development</u>	<u>the Development of the Site with [...insert description of the development...] as set out in the Application;</u>
<u>Dwelling</u>	<u>any dwelling (including a house flat or maisonette) to be constructed pursuant to the Planning Permission;</u>
Index	means: <ul style="list-style-type: none"> (a) in relation to any sum referred to in Schedule Two the Halifax Price Index for the South East; (b) in relation to any other sum herein the BCIS All-In Tender Price Index published in the Quarterly Review of Building Prices by the Royal Institution of Chartered Surveyors; and
<u>Interest</u>	<u>interest at 4% per cent above the base lending rate of the Lloyds TSB Bank Plc from time to time;</u>
<u>Occupation and Occupied</u>	<u>occupation for the purposes permitted by the</u>

	<u>Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations;</u>
<u>Plan</u>	<u>the plan attached to this Agreement;</u>
<u>Planning Permission</u>	means planning permission <u>subject to conditions to be granted in determination of by the Council pursuant to the Application- as set out in the Second Schedule;</u>
<u>Property Transfer Trigger</u>	<u>the restriction on occupation of more than [...specify no. of dwellings/square metres as applicable...] set out in paragraph [1] of the Third Schedule; and</u>
<u>Site</u>	<u>the land against which this Agreement may be enforced as shown edged red on the Plan</u>

1.2 Save where contrary intention is shown the provisions of the Interpretation Act 1978 shall apply to the provisions hereof as if this ~~Deed~~Agreement was an Act of Parliament.

2. Construction of this Agreement

2.1 Where in this Agreement reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Agreement.

2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.

2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.

2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and severally unless there is an express provision otherwise.

2.5 Any reference to an Act of Parliament shall include any modification, extension or

re-enactment of that Act for the time being in force and shall include all instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.

2.6 References to any party to this Agreement shall include the successors in title to that party and to any person deriving title through or under that party and in the case of the Council and County Council the successors to their respective statutory functions.

2.7 The headings and contents list are for reference only and shall not affect construction.

3. ~~2.~~ Statutory Authority

~~2.1 All obligations hereunder on the part of the Owner [and the Chargee] (howsoever expressed) are planning obligations for the purposes of section 106 of the Act entered into in respect of its interest in the land as particularised in Schedule One hereto enforceable against the Owner and his successors in title the obligations being enforceable by the City Council.~~

~~2.2 All and any obligations hereunder on the part of the City Council are contractual obligations personal to the Owner (and not to any successor in title to the Land or assignable to any other person) entered into pursuant to section 111 of the Local Government Act 1972.~~

3.1 This Agreement is made pursuant to Section 106 of the Act.

3.2 The covenants, restrictions and requirements imposed upon the Owner under this Agreement create planning obligations pursuant to Section 106 of the Act and are enforceable by the City Council as local planning authority against the Owner.

4. Conditionality

4.1 This Agreement is conditional upon:

4.1.1 the grant of the Planning Permission; and

4.1.2 the Commencement of Development

4.2 save for the provisions of Clauses 7.1, 10, 13, 14 and 15 which shall come into effect immediately upon completion of this Agreement.

5. ~~3.~~ Owner's Obligations

5.1 ~~3.1~~ The Owner covenants with the City Council ~~to observe and perform the requirements contained in the Schedules hereof~~ as set out in the Third Schedule.

6. The City Council's Covenants

6.1 The City Council covenants with the Owner as set out in the Fourth Schedule.

7. ~~4.~~ Miscellaneous

~~4.1~~ ~~All sums payable hereunder shall be exclusive of any value added tax properly payable.~~

7.1 The Owner shall pay to the Council on completion of this Agreement the reasonable legal costs of the Council incurred in the negotiation, preparation and execution of this Agreement.

7.2 ~~4.2~~ The Contracts (Right of Third Parties) Act 1999 shall not apply to any of the provisions of this Agreement.

7.3 This Agreement shall be registrable as a local land charge by the Council.

7.4 Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the City Council under the terms of this Agreement such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed and any such agreement, consent, approval or expression of satisfaction shall be given on behalf of the City Council by the Head of Development and Building Control.

7.5 Following the performance and satisfaction of all the obligations contained in this Agreement the Council shall forthwith effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Agreement.

7.6 This Agreement shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owner) it is modified by any statutory procedure or expires prior to the Commencement of Development.

7.7 No person shall be liable for any breach of any of the planning obligations or other provisions of this Agreement after it shall have parted with its entire interest in the Site but without prejudice to liability for any subsisting breach arising prior to parting with such interest.

- 7.8 This Agreement shall not be enforceable against owner-occupiers or tenants of dwellings constructed pursuant to the Planning Permission nor against those deriving title from them
- 7.9 Nothing in this Agreement shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Agreement.
- 7.10 Nothing contained or implied in this Agreement shall prejudice or affect the rights discretions powers duties and obligations of the City Council under all statutes by-laws statutory instruments orders and regulations in the exercise of their functions as a local authority.
- 7.11 Nothing in this Agreement shall prejudice or affect the rights powers duties and obligations or the City Council in the exercise of its functions in any capacity.
- 7.12 Where more than one person is liable under any provision hereof the liability shall be joint and several.
- 7.13 All notifications approvals permissions consents or similar hereunder shall be in writing.
- 7.14 The Owner shall permit the City Council full access to the land (save for buildings in residential or commercial occupation to which access shall be permitted on not less than twenty-four (24) hours written notice) for any purpose in connection with this Agreement.

8. Indexation

- 8.1 ~~4.3~~ All sums payable hereunder shall be paid subject to indexation which shall mean that should the value of the Index as at the date of payment (“the Payment Date Value”) exceed the value of the Index as at the date of this Agreement (“the Base Date Value”) the sum to be paid shall be the sum specified hereunder multiplied by the Payment Date Value and divided by the Base Date Value.

- ~~4.4 In the event of the Chargee exercising powers under or by virtue of his charge upon the Land as particularised in Schedule One hereof the Chargee and his successors in title shall become liable hereunder as if he were the Owner PROVIDED ALWAYS that he shall not otherwise be liable hereunder.~~

9. Interest

- 9.1 ~~4.5~~ If any sum payable to the City Council hereunder is not paid in full (including any

increase in consequence of ~~clause 4.3~~Clause 7.4 above) on or before the due date interest shall be due and payable to the payee at the rate of 4% per annum above the base lending rate of Lloyds TSB Bank plc compounded monthly for the period from the due date until payment of the full amount due as at the date of payment.

10. Change in Ownership

10.1 The Owner agrees with the City Council to give the City Council immediate written notice of any change in ownership of any of its interests in the Site occurring before all the obligations under this Agreement have been discharged such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Site or unit of occupation purchased by reference to a plan.

11. VAT

11.1 All sums payable hereunder shall be exclusive of any value added tax properly payable.

12. Waiver

12.1 ~~4.6~~ No alteration in the terms of this Agreement nor any forbearance or forgiveness on the part of the City Council in or in the extent or nature of any matter or thing concerning this Agreement shall in any way release the Owner from any liability hereunder.

~~4.7 Nothing in this Agreement shall prejudice or affect the rights powers duties and obligations of the City Council in the exercise of its functions in any capacity.~~

~~4.8 Where more than one person is liable under any provision hereof the liability shall be joint and several.~~

~~4.9 All notifications approvals permissions consents or similar hereunder shall be in writing.~~

13. Dispute Provisions

13.1 In the event of any dispute or difference arising between the parties to this Agreement in respect of any matter contained in this Agreement such dispute or difference shall be referred to an independent and suitable person holding appropriate professional qualifications to be appointed (in the absence of an

agreement) by or on behalf of the president for the time being of the professional body chiefly relevant in England with such matters as may be in dispute and such person shall act as an expert whose decision shall be final and binding on the parties in the absence of manifest error and any costs shall be payable by the parties to the dispute in such proportion as the expert shall determine and failing such determination shall be borne by the parties in equal shares.

13.2 In the absence of agreement as to the appointment or suitability of the person to be appointed pursuant to Clause 13.1 or as to the appropriateness of the professional body then such question may be referred by either part to the president for the time being of the Law Society for him to appoint a solicitor to determine the dispute such solicitor acting as an expert and his decision shall be final and binding on all parties in the absence of manifest error and his costs shall be payable by the parties to the dispute in such proportion as he shall determine and failing such determination shall be borne by the parties in equal shares.

13.3 Any expert howsoever appointed shall be subject to the express requirement that a decision was reached and communicated to the relevant parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than twenty-eight (28) working days after the conclusion of any hearing that takes place or twenty-eight (28) working days after he has received any file or written representation.

13.4 The expert shall be required to give notice to each of the said parties requiring them to submit to him within ten (10) working days of notification of his appointment written submissions and supporting material and the other party will be entitled to make a counter written submission within a further ten (10) working days.

13.5 The provisions of this clause shall not affect the ability of the City Council to apply for and be granted any of the following: declaratory relief, injunction, specific performance, payment of any sum, damages, any other means of enforcing this Agreement and consequential and interim orders and relief.

14. Jurisdiction

14.1 This Agreement is governed by and interpreted in accordance with the law of England and Wales and the parties submit to the non-exclusive jurisdiction of the courts of England and Wales

15. Delivery

15.1 ~~4.10~~ ~~The Owner shall permit the City Council full access to the land (save for buildings in residential or commercial occupation to which access shall be permitted on not less than twenty four (24) hours written notice) for any purpose in connection with this Agreement.~~ The provisions of this Agreement (other than this clause which shall be of immediate effect) shall be of no effect until this Agreement has been dated.

IN WITNESS whereof the parties hereto have executed this Agreement as a ~~deed~~ Agreement and delivered the same the day and year first above written.

Schedule One

~~[Set out land ownership details (freehold and leasehold if relevant) including charges~~

~~If there are multiple parcels of land with differing ownerships deal with each separately by reference to the plan]~~

The Freehold land know being land on the east side of the Oxford Canal, Jericho Oxford all of which property is registered at the Land Registry with title number ON268665.

—

Schedule Two

Form of Notice of Planning Permission

Schedule ~~Two~~Three

The Owner's Covenants with the City Council

1. Affordable Housing — ~~On Site Provision~~

1.1 Definitions

<u>“Affordable Housing”</u>	<u>subsidised housing that will be available to persons who cannot afford to rent or buy housing generally available on the open market;</u>
<u>“Affordable Housing Units”</u>	<u>that part of the Development comprising [.....] residential units [...describe mix of units...] together with [.....] car parking spaces shown on drawing numbers [drawing references]; or any one or more of them</u>
<u>“Chargee”</u>	<u>any mortgagee or chargee of the Registered Social Landlord or the successors in title to such mortgagee or chargee or any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925¹;</u>
<u>“Chargee’s Duty”</u>	<u>the tasks and duties set out in paragraph 1.9 to the Affordable Housing Part of the Third Schedule</u>
<u>“Market Housing Units”</u>	<u>that part of the Development which is general market housing for sale on the open market and which is not Affordable Housing;</u>
<u>“Practical Completion”</u>	<u>issue of a certificate of practical completion by the Owner’s architect or in the event that the Development is constructed by a party other than the Owner the issue of a certificate of practical completion by that other party’s architect;</u>
<u>“Protected Tenant”</u>	<u>any tenant who:</u>

- (a) has exercised the right to acquire pursuant to the Housing Act 1996 or any statutory provision for the time being in force (or any equivalent contractual right) in respect of a particular Affordable Housing Unit
- (b) has exercised any statutory right to buy (or any equivalent contractual right) in respect of a particular Affordable Housing Unit
- (c) has been granted a shared ownership lease by a Registered Social Landlord (or similar arrangement where a share of the Affordable Housing Unit is owned by the tenant and a share is owned by the Registered Social Landlord) by the Registered Social Landlord in respect of a particular Affordable Housing Unit and the tenant has subsequently purchased from the Registered Social Landlord all the remaining shares so that the tenant owns the entire Affordable Housing Unit;

“Registered Provider”

Oxford City council or a registered social landlord as defined in Part 1 of the Housing Act 1996 who is registered with the Housing Corporation pursuant to Section 3 of that Act and has not been removed from the register pursuant to Section 4 of that Act and who is approved by the Council (such approval not to be unreasonably withheld or delayed).

1.2 ~~4.~~ The Owner shall not cause or permit the Commencement of Development or continuance of the Development prior to obtaining the written agreement of the City Council to a scheme for the provision of 9 of the dwellings within the Development (units [IDENTIFY UNITS] as shown on dwg no [IDENTIFY DWG NO] as Affordable Housing (“the Affordable Housing Scheme”) such scheme to provide:

1.2.1 ~~1.1~~ that each of the dwellings comprising the Affordable Housing is social rented housing complying with the definition in the glossary to the Sites and Housing Local Plan (February 2013) (“Social Rented Housing”) providing that:

(a) ~~1.1.1~~[X] of the Affordable Housing shall be 1 bedroom (2 person) Social Rented Housing comprising units [XXXXXX];

(b) ~~1.1.2~~[9-X] of the Affordable Housing shall be 2 bedroom (4 person) Social Rented Housing comprising units [XXXXXX]; and

(c) ~~1.1.3~~ showing that at least one of the dwellings comprising the Affordable Housing will be fully wheelchair accessible, or of a design that allows future adaptation to become fully wheelchair accessible.

1.2.2 ~~1.2~~ the contractual arrangements with a registered provider of social housing within the meaning of the Housing and Regeneration Act 2008 (including for the avoidance of doubt the City Council) (“Registered Provider”) for the delivery (both construction and for grant of lease (including form of proposed lease) of not less than one hundred and twenty-five (125) years) of the Affordable Housing including a copy of such completed contract certified as a true copy by a solicitor; and

1.2.3 ~~1.3~~ the servicing arrangements of the Affordable Housing and the allocation of responsibility for such servicing and the cost of such servicing.

1.3 ~~2.~~ In the event that the Registered Provider is not the City Council the Owner shall not cause or permit the Commencement of Development or continuance of the Development prior to that Registered ~~Proprietor~~Provider having entered into a framework agreement applicable to the Affordable Housing to be provided hereunder with the City Council for partnership working in relation to the operation of a shared register of people in need of Affordable Housing in the administrative area of the City Council and the allocation of Social Rented Housing.

~~3.~~ ~~The Owner shall not cause or permit the occupation of more than seven (7) of the dwellings (excluding those specified as Affordable Housing) authorised by the Permission until:~~

~~3.1~~ ~~six (6) of the dwellings comprising the Affordable Housing have been fully constructed and are finished ready for immediate residential occupation in accordance with the Affordable Housing Scheme; and~~

- 1.4 ~~3.2~~ Subject to the provisions of paragraph 1.6, the Owner shall not cause or permit the occupation of more than seven (7) of Market Housing Units shall be Occupied until six (6) of the dwellings comprising the Affordable Housing have been fully constructed and are finished ready for immediate residential occupation in accordance with the Affordable Housing Scheme and (as regards those six (6) dwellings) the leasehold interest of those dwellings comprised within the Affordable Housing have been transferred to the Registered Provider such grant to be prepared by solicitors instructed by the Owner and at the cost of the Owner in substantially the form of that referred to in paragraph ~~4.21.2.2~~ above.
- ~~4.~~ The Owner shall not cause of permit the occupation of more than ten (10) of the dwellings (excluding those specified as Affordable Housing) authorised by the Permission until:-
- ~~4.4~~ all nine (9) of the dwellings comprising the Affordable Housing have been fully constructed and are finished ready for immediate residential occupation in accordance with the Affordable Housing Scheme; and
- 1.5 ~~4.2~~ Subject to the provisions of paragraph 1.6, the Owner shall not cause of permit the occupation of more than ten (10) of the Market Housing Units authorised by the Permission until all nine (9) of the dwellings comprising the Affordable Housing have been fully constructed and are finished ready for immediate residential occupation in accordance with the Affordable Housing Scheme and (as regards those nine dwellings) the leasehold interest of those dwellings comprised within the Affordable Housing have been transferred to the Registered Provider such grant to be prepared by solicitors instructed by the Owner and at the cost of the Owner in substantially the form of that referred to in paragraph ~~4.21.2.2~~ above.
- 1.6 Subject to the provisions of this paragraph 1.6 from the date of Practical Completion of the Affordable Housing Units they shall not be used other than for Affordable Housing other than by:
- 1.6.1 any Protected Tenant or any mortgagee or chargee of the Protected Tenant or any person deriving title from the Protected Tenant or any successor in title thereto and their respective mortgagees and chargees; or
- 1.6.2 any purchaser from a mortgagee of an individual Affordable Housing Unit pursuant to any default by the individual mortgagor.
- 1.7 ~~5.~~ The Owner will procure that all dwellings comprised within the Affordable Housing shall:

- 1.7.1 ~~5.1~~ meet all requirements of Homes and Community Agency Design Quality Standards and Housing Quality Indicators that (were that Agency funding their provision) would be applicable to them;
- 1.7.2 ~~5.2~~ comply with Lifetime Homes standards then applicable; and
- 1.7.3 ~~5.3~~ show compliance with Secure By Design standards then applicable.
- 1.8 ~~6~~—The Owner shall not cause permit or allow occupation of any dwelling comprised within the Affordable Housing other than as Social Rented Housing in accordance with the Affordable Housing Scheme.
- ~~7. The Owner shall not commence the Development prior to paying to the City Council the sum of two thousand (£2,000.00) in respect of the monitoring and administration of the affordable housing requirements.~~

~~1. Schedule Three~~

~~Matters Other Than Affordable Housing~~

- ~~1. The costs of the City Council~~
- ~~1.1 The Owner shall pay to the City Council on completion of this Agreement the legal costs of the City Council in connection with the preparation and completion of this Agreement~~
- 1.9 Any Chargee shall prior to seeking to dispose of the Affordable Housing Units pursuant to any default under the terms of its mortgage or charge shall give not less than three (3) months' prior notice to the Council of its intention to dispose and:
- 1.9.1 in the event that the Council responds within one (1) month from receipt of the notice indicating that arrangements for the transfer of the Affordable Housing Units can be made in such a way as to safeguard them as Affordable Housing then the Chargee shall co-operate with such arrangements and use its best endeavours to secure such transfer; or
- 1.9.2 if the Council does not serve its response to the notice served under paragraph 1.9.1 within one (1) month then the Chargee shall be entitled to dispose free of the restrictions set out in this Part of the Third Schedule which shall from the time of completion of the disposal cease to apply; or
- 1.9.3 if the Council or any other person cannot within three (3) months of the date of service of its response under paragraph 1.9.1 secure such transfer

then provided that the Chargee shall have complied with its obligations under paragraph 4.4(a) the Chargee shall be entitled to dispose free of the restrictions set out in this Part of the Third Schedule which shall from the time of completion of the disposal cease to apply.

PROVIDED THAT at all times the rights and obligations in paragraphs 1.9.1 - 1.9.3 shall not require the Chargee to act contrary to its duties under the charge or mortgage and that the Council must give full consideration to protecting the interest of the Chargee in respect of moneys outstanding under the charge or mortgage

2. Costs

~~2.1~~ ~~4.2~~ The Owner shall pay to the City Council on completion of this Agreement the sum of [XXXXX] being a contribution towards the costs of the City Council in connection with the administration and management of this Agreement (including the payments further to this Agreement) [Calculated as per SPD]

~~2. Restaurant~~

~~2.4 The land shown edged green on the plan shall not be used other than as a restaurant or (subject to the grant of any required planning permission) Social Rented Housing.~~

3. Notifications

3.1 The Owner shall not cause or permit the commencement or continuance of the Development unless the Owner has given notice of commencement of the Development to the City Council such notice specifying the intended date for commencement.

3.2 The Owner shall give notice to the City Council of any disposal of his interest in the Land (or part thereof) or any other event giving rise to a successor in title (other than disposals of individual dwellings) providing the name and address of that successor the date of disposal and a plan identifying the land affected such notice to be provided within fourteen (14) days of the disposal or other event giving rise to a successor in title.

3.3 On each anniversary of Commencement of Development until completion of the Development the Owner shall give notice to the City Council identifying the extent to which the Development has been executed

4. Bridge

- 4.1 The Owner shall not cause or permit the Commencement of Development or continuance of the Development unless the written approval of the City Council has been obtained for a scheme (“the Bridge Scheme”) for the provision of a ~~fully automated lifting~~ bridge (“the Bridge”) across the canal in the approximate position shown marked on the plan annexed hereto (or in such alternative position as the City Council may from time to time agree in writing) such scheme to provide for consultation and approval of the item or items comprising the Bridge (including design appearance materials and location) commissioning execution of all required works for the item or items comprising the bridge and subsequent maintenance (and call out arrangements in the event of mechanical failure) including a timetable for each stage by reference to time from Commencement of Development and/or prior to the commencement/completion/ occupation of specified elements of the Development.
- 4.2 The Owner shall ensure that the approved scheme referred to in paragraph 4.1 above is executed in its entirety to the satisfaction of the City Council (acting reasonably) and shall notify the Council of the completion of ~~each distinct element~~the Bridge
- 4.3 In the event that there is an extant breach of the approved scheme referred to in paragraph 4.1 above the Owner shall not cause or permit any further works for the execution of the Development or the occupation of any part of the Development not previously occupied.

~~4.4 The Owner shall maintain the Bridge in accordance with the Bridge Scheme.~~

5. Public Open Space

- 5.1 The Owner shall not cause or permit the Commencement of Development or continuance of the Development prior to obtaining the written approval of the City Council to a public open space scheme in accordance with the scheme shown on [DWG NO] such scheme to provide:
- 5.1.1 the locations and details of each area of amenity and/or recreational open space (providing specifications of equipment where equipment is proposed) proposed within the Land as part of the Development sufficient to ensure that the needs of all those likely to use the Development will be met; and
- 5.1.2 a timetable for the provision of ~~each and every element~~the open space scheme by reference to ~~such~~each element being available for functional public use to the reasonable satisfaction of the City Council either prior to

a defined part of the Development being commenced or occupied for the purpose permitted by the Permission.

5.2 The Owner shall comply fully with all aspects of the approved scheme referred to in paragraph 5.1 above and shall notify the City Council of each ~~and every~~ element of the approved scheme referred to in paragraph 5.1 above first being made available for public use.

5.3 The Owner shall in respect of each ~~and every~~ element of the approved scheme referred to in paragraph 5.1 above from the date on which it is first made available for public use:

5.3.1 keep it available for free public use at all times restricting public access only as may be required by law or as otherwise agreed in advance in writing with the City Council; and

5.3.2 maintain it such that it does not materially deteriorate.

5.4 The Owner shall not cause or permit the commencement or carrying on of any works for the provision of any element of the approved scheme referred to in paragraph 5.1 above prior to obtaining the written approval of the City Council to a mechanism to ensure future compliance with the obligations of the Owner pursuant to paragraphs 5.3.1 and 5.3.2 above.

5.5 In the event that there is an extant breach of the approved scheme referred to in paragraph 5.1 above the Owner shall not cause or permit any further works for the execution of the Development or the occupation of any part of the Development not previously occupied.

6. **Canal Works** ~~[ARE THESE WORKS SHOWN ON A DWG]~~

6.1 The Owner shall not cause or permit the Commencement or continuance of the Development prior to obtaining the written approval of the City Council to a scheme ("the Canal Works Scheme") for the provision of a winding hole capable of providing a turning area for boats of up to 22 metres in length, the improvement works to the canal edge and the provision of replacement moorings in consequence of the provision of the Bridge ("the Canal Works") such scheme to provide:

6.1.1 the locations and details of each element of the works comprised within the Canal Works;

6.1.2 a timetable for the provision of each ~~and every~~ element by reference to such element being completed to the reasonable satisfaction of the City

Council either prior to a defined part of the Development being commenced or occupied for the purpose permitted by the Permission; and

- 6.1.3 post completion maintenance and protection arrangements,
- 6.2 The Owner shall comply fully with all aspects of the Canal Works Scheme referred to in paragraph 6.1 above to the satisfaction of the City Council and shall notify the City Council of each ~~and every~~ element of the approved scheme referred to in paragraph 6.1 above being completed.
- 6.3 In the event that there is an extant breach of Canal Works Scheme the Owner shall not cause or permit any further works for the execution of the Development or the occupation of any part of the Development not previously occupied.

~~6.4 The Owner shall protect and maintain the Canal Works in accordance with the Canal Works Scheme.~~

7. Dog Bin and Sign

- 7.1 The Owner shall not cause or permit the Commencement or continuance of the Development prior to paying to the City Council the sum of ~~[XXXXX-?£1000?]~~ as a contribution to the cost of dog litter bins and an information board at the Walton Well Road entrance to Port Meadow.

8. Community Centre/~~Boatyard~~

- 8.1 The Owner shall not cause or permit the Commencement of Development or continuance of the Development prior to offering to ~~transfer the land shown edged red and particularised on dwg no [XXXXX] (“the Community Centre Drawing”)~~ annexed hereto enter into an agreement for lease in substantially the form annexed (“the Community Centre Land”) to the Jericho Wharf Trust [check legal persona] the Agreement for Lease such offer to remain open for acceptance for three (3) months.
- 8.2 In the event that the offer referred to in paragraph 8.1 above is not accepted:
- 8.2.1 within three (3) months of the Commencement of the Development the Owner shall not continue the Development more than four (4) months after commencement unless and until he has submitted the names of alternative potential ~~transferees~~ lessees (up to three ~~of the Community Centre Land~~); or
- 8.2.2 within fourteen (14) days of the City Council given written notice approving any one or more of those potential ~~transferees~~ lessees the Owner shall

offer to enter into the transfer the ~~Community Centre Land to~~Agreement for Lease with one of those approved ~~potential transferees~~lessees such offer to remain open for acceptance for three (3) months.

8.3 The Owner shall not cause or permit the residential occupation of any part of the Development prior to ~~the transfer of the Community Centre Land~~entering into the Agreement for Lease to the Jericho Wharf Trust ~~to~~or any ~~transferee~~other lessee approved under paragraph 8.2 above or to the City Council.

~~8.4 Any transfer (and offer to transfer) under this paragraph 8 shall:~~

~~8.4.1 be in respect of the entirety of the Community Centre Land;~~

~~8.4.2 be for the consideration of one pound (£1.00);~~

~~8.4.3 grant to the transferee (which expression includes successors in title) all reasonably necessary rights to allow the Community Centre Land to be built out as proposed on the Community Centre Drawing ("the Community Centre Development") and thereafter used for its design purpose as set out on that drawing ("the Community Centre Use");~~

~~8.4.4 include an obligation on the part of the transferor (which expression includes successors in title) to construct all foundations and other supporting structures including (without limitation) the boatyard roof slab as shown on the Community Centre Drawing;~~

~~8.4.5 include an obligation on the part of the transferor to provide service media as specified on the Community Centre Drawing to points of entry to the Community Centre Land at the points identified on that drawing;~~

~~8.4.6 include an obligation on the part of the transferor to construct such of the Development (and thereafter maintain such that it does not materially deteriorate) as is necessary to allow for the execution of the Community Centre Development and thereafter the Community Centre Use no later than eighteen (18) months from the Commencement of Development;~~

~~8.4.7 be with vacant possession and without any encumbrance adversely affecting the ability of the transferee to execute the Community Centre Development and conduct the Community Centre Use; and~~

~~8.4.8 provide for a payment of one hundred and fifty thousand pounds (£150.00) from the transferor to the transferee upon transfer.~~

Schedule Four

City Council's Covenants

At the written request of the Owner the City Council shall provide written confirmation of the discharge of the obligations contained in this Agreement when satisfied that such obligations have been performed.

Executed ~~and Delivered~~ as a Deed) by-???)
Affixing the common seal of
Cheer Team Corporation Limited
in the presence of:)

.....
Director

.....
Director / Secretary

~~Executed and Delivered as a Deed~~)
~~by~~ THE COMMON SEAL of THE
OXFORD CITY COUNCIL ~~)~~ was
~~in the presence of:~~)
~~— Director~~
~~— Director / Secretary~~

~~Executed and Delivered as a Deed~~)
~~by~~ ???)
affixed to this deed by order of
the Council in the presence of:)
~~— Director~~
~~— Director / Secretary~~

.....
Nominated Officer

Document comparison by Workshare Compare on 20 May 2015 18:04:03

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Moved cell	
Split/Merged cell	
Padding cell	

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Moved to	12
Style change	0
Format changed	0
Total changes	400

DATED _____ 2015

(1) CHEER TEAM CORPORATION
LIMITED

- and -

(2) THE OXFORD CITY COUNCIL

SECTION 106 AGREEMENT

relating to

Land at Jericho, Oxford



**PENNINGTONS
MANCHES**

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SECTION 106 AGREEMENT

Dated:

2015

Parties

- (1) CHEEER TEAM CORPORATION LIMITED a company incorporated in *Hong Kong* with Company Number whose 1890409 whose registered office is situated at 11/F Johnson Industrial Mansion, 340 Kwun Tong Road, Kowloon Hong Kong ("the Owner"); and
- (2) THE OXFORD CITY COUNCIL of The Town Hall, Blue Boar Street, Oxford OX1 4EY ("the City Council").

WHEREAS

- (A) The Owner is interested in land at [describe land (by reference to registered title is applicable)] ("the Land") in the manner and to the extent set out in Schedule One hereto.
- (B) The City Council is a local planning authority and the district planning authority for the administrative area of the City of Oxford for the purposes of the being the area in which the Land is situated.
- (C) Application bearing reference [planning application number] ("the Application") has been made to the City Council pursuant to Part III of the Act for planning permission to develop the Land by [description of development from planning application] ("the Development").
- (D) The parties hereto have entered into this Agreement with the intent that its provisions be material to the determination of the Application.

1. Definitions and Interpretation

- 1.1 Save where contrary intention is shown the following expressions shall bear the following meanings herein:

Act

Town and Country Planning Act 1990;

**Commencement of
Development**

the date on which any material operation (as defined in Section 56(4) of the Act) forming part of the Development begins to be carried out other than (for the purposes of this Agreement and for no other purpose) operations consisting of site

clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and “Commence Development” shall be construed accordingly;

Development	the Development of the Site with [... <i>insert description of the development...</i> ...] as set out in the Application;
Dwelling	any dwelling (including a house flat or maisonette) to be constructed pursuant to the Planning Permission;
Index	means: (a) in relation to any sum referred to in Schedule Two the Halifax Price Index for the South East; (b) in relation to any other sum herein the BCIS All-In Tender Price Index published in the Quarterly Review of Building Prices by the Royal Institution of Chartered Surveyors;
Interest	interest at 4% per cent above the base lending rate of the Lloyds TSB Bank Plc from time to time;
Occupation and Occupied	occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations;
Plan	the plan attached to this Agreement;
Planning Permission	means planning permission subject to conditions

to be granted by the Council pursuant to the Application as set out in the Second Schedule;

Property Transfer Trigger

the restriction on occupation of more than [...specify no. of dwellings/square metres as applicable...] set out in paragraph [1] of the Third Schedule; and

Site

the land against which this Agreement may be enforced as shown edged red on the Plan

1.2 Save where contrary intention is shown the provisions of the Interpretation Act 1978 shall apply to the provisions hereof as if this Agreement was an Act of Parliament.

2. Construction of this Agreement

2.1 Where in this Agreement reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Agreement.

2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.

2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.

2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and severally unless there is an express provision otherwise.

2.5 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.

2.6 References to any party to this Agreement shall include the successors in title to that party and to any person deriving title through or under that party and in the case of the Council and County Council the successors to their respective statutory functions.

2.7 The headings and contents list are for reference only and shall not affect construction.

3. Statutory Authority

- 3.1 This Agreement is made pursuant to Section 106 of the Act.
- 3.2 The covenants, restrictions and requirements imposed upon the Owner under this Agreement create planning obligations pursuant to Section 106 of the Act and are enforceable by the City Council as local planning authority against the Owner.

4. Conditionality

- 4.1 This Agreement is conditional upon:
- 4.1.1 the grant of the Planning Permission; and
- 4.1.2 the Commencement of Development
- 4.2 save for the provisions of Clauses 7.1, 10, 13, 14 and 15 which shall come into effect immediately upon completion of this Agreement.

5. Owner's Obligations

- 5.1 The Owner covenants with the City Council as set out in the Third Schedule.

6. The City Council's Covenants

- 6.1 The City Council covenants with the Owner as set out in the Fourth Schedule.

7. Miscellaneous

- 7.1 The Owner shall pay to the Council on completion of this Agreement the reasonable legal costs of the Council incurred in the negotiation, preparation and execution of this Agreement.
- 7.2 The Contracts (Right of Third Parties) Act 1999 shall not apply to any of the provisions of this Agreement.
- 7.3 This Agreement shall be registrable as a local land charge by the Council.
- 7.4 Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the City Council under the terms of this Agreement such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed and any such agreement, consent, approval or expression of satisfaction shall be given on behalf of the City Council by the Head of Development and Building Control.
- 7.5 Following the performance and satisfaction of all the obligations contained in this

Agreement the Council shall forthwith effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Agreement.

- 7.6 This Agreement shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owner) it is modified by any statutory procedure or expires prior to the Commencement of Development.
- 7.7 No person shall be liable for any breach of any of the planning obligations or other provisions of this Agreement after it shall have parted with its entire interest in the Site but without prejudice to liability for any subsisting breach arising prior to parting with such interest.
- 7.8 This Agreement shall not be enforceable against owner-occupiers or tenants of dwellings constructed pursuant to the Planning Permission nor against those deriving title from them
- 7.9 Nothing in this Agreement shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Agreement.
- 7.10 Nothing contained or implied in this Agreement shall prejudice or affect the rights discretions powers duties and obligations of the City Council under all statutes by-laws statutory instruments orders and regulations in the exercise of their functions as a local authority.
- 7.11 Nothing in this Agreement shall prejudice or affect the rights powers duties and obligations or the City Council in the exercise of its functions in any capacity.
- 7.12 Where more than one person is liable under any provision hereof the liability shall be joint and several.
- 7.13 All notifications approvals permissions consents or similar hereunder shall be in writing.
- 7.14 The Owner shall permit the City Council full access to the land (save for buildings in residential or commercial occupation to which access shall be permitted on not less than twenty-four (24) hours written notice) for any purpose in connection with this Agreement.

8. Indexation

- 8.1 All sums payable hereunder shall be paid subject to indexation which shall mean that should the value of the Index as at the date of payment ("the Payment Date Value")

exceed the value of the Index as at the date of this Agreement (“the Base Date Value”) the sum to be paid shall be the sum specified hereunder multiplied by the Payment Date Value and divided by the Base Date Value.

9. Interest

9.1 If any sum payable to the City Council hereunder is not paid in full (including any increase in consequence of Clause 7.4 above) on or before the due date interest shall be due and payable to the payee at the rate of 4% per annum above the base lending rate of Lloyds TSB Bank plc compounded monthly for the period from the due date until payment of the full amount due as at the date of payment.

10. Change in Ownership

10.1 The Owner agrees with the City Council to give the City Council immediate written notice of any change in ownership of any of its interests in the Site occurring before all the obligations under this Agreement have been discharged such notice to give details of the transferee’s full name and registered office (if a company or usual address if not) together with the area of the Site or unit of occupation purchased by reference to a plan.

11. VAT

11.1 All sums payable hereunder shall be exclusive of any value added tax properly payable.

12. Waiver

12.1 No alteration in the terms of this Agreement nor any forbearance or forgiveness on the part of the City Council in or in the extent or nature of any matter or thing concerning this Agreement shall in any way release the Owner from any liability hereunder

13. Dispute Provisions

13.1 In the event of any dispute or difference arising between the parties to this Agreement in respect of any matter contained in this Agreement such dispute or difference shall be referred to an independent and suitable person holding appropriate professional qualifications to be appointed (in the absence of an agreement) by or on behalf of the president for the time being of the professional body chiefly relevant in England with such matters as may be in dispute and such person shall act as an expert whose decision shall be final and binding on the parties in the absence of manifest error and any costs shall be payable by the parties to the

dispute in such proportion as the expert shall determine and failing such determination shall be borne by the parties in equal shares.

- 13.2 In the absence of agreement as to the appointment or suitability of the person to be appointed pursuant to Clause 13.1 or as to the appropriateness of the professional body then such question may be referred by either part to the president for the time being of the Law Society for him to appoint a solicitor to determine the dispute such solicitor acting as an expert and his decision shall be final and binding on all parties in the absence of manifest error and his costs shall be payable by the parties to the dispute in such proportion as he shall determine and failing such determination shall be borne by the parties in equal shares.
- 13.3 Any expert howsoever appointed shall be subject to the express requirement that a decision was reached and communicated to the relevant parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than twenty-eight (28) working days after the conclusion of any hearing that takes place or twenty-eight (28) working days after he has received any file or written representation.
- 13.4 The expert shall be required to give notice to each of the said parties requiring them to submit to him within ten (10) working days of notification of his appointment written submissions and supporting material and the other party will be entitled to make a counter written submission within a further ten (10) working days.
- 13.5 The provisions of this clause shall not affect the ability of the City Council to apply for and be granted any of the following: declaratory relief, injunction, specific performance, payment of any sum, damages, any other means of enforcing this Agreement and consequential and interim orders and relief.

14. Jurisdiction

- 14.1 This Agreement is governed by and interpreted in accordance with the law of England and Wales and the parties submit to the non-exclusive jurisdiction of the courts of England and Wales

15. Delivery

- 15.1 The provisions of this Agreement (other than this clause which shall be of immediate effect) shall be of no effect until this Agreement has been dated.

IN WITNESS whereof the parties hereto have executed this Agreement as a Agreement and delivered the same the day and year first above written.

Schedule One

The Freehold land know being land on the east side of the Oxford Canal, Jericho Oxford all of which property is registered at the Land Registry with title number ON268665.

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Schedule Two

Form of Notice of Planning Permission

Schedule Three

The Owner's Covenants with the City Council

1. Affordable Housing

1.1 Definitions

- “Affordable Housing”** subsidised housing that will be available to persons who cannot afford to rent or buy housing generally available on the open market;
- “Affordable Housing Units”** that part of the Development comprising [.....] residential units [...*describe mix of units*...] together with [.....] car parking spaces shown on drawing numbers [*drawing references*]; or any one or more of them
- “Chargee”** any mortgagee or chargee of the Registered Social Landlord or the successors in title to such mortgagee or chargee or any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925¹;
- “Chargee’s Duty”** the tasks and duties set out in paragraph 1.9 to the Affordable Housing Part of the Third Schedule
- “Market Housing Units”** that part of the Development which is general market housing for sale on the open market and which is not Affordable Housing;
- “Practical Completion”** issue of a certificate of practical completion by the Owner’s architect or in the event that the Development is constructed by a party other than the Owner the issue of a certificate of practical completion by that other party’s architect;
- “Protected Tenant”** any tenant who:
- (a) has exercised the right to acquire

pursuant to the Housing Act 1996 or any statutory provision for the time being in force (or any equivalent contractual right) in respect of a particular Affordable Housing Unit

- (b) has exercised any statutory right to buy (or any equivalent contractual right) in respect of a particular Affordable Housing Unit
- (c) has been granted a shared ownership lease by a Registered Social Landlord (or similar arrangement where a share of the Affordable Housing Unit is owned by the tenant and a share is owned by the Registered Social Landlord) by the Registered Social Landlord in respect of a particular Affordable Housing Unit and the tenant has subsequently purchased from the Registered Social Landlord all the remaining shares so that the tenant owns the entire Affordable Housing Unit;

“Registered Provider”

Oxford City council or a registered social landlord as defined in Part 1 of the Housing Act 1996 who is registered with the Housing Corporation pursuant to Section 3 of that Act and has not been removed from the register pursuant to Section 4 of that Act and who is approved by the Council (such approval not to be unreasonably withheld or delayed).

1.2 The Owner shall not cause or permit the Commencement of Development or continuance of the Development prior to obtaining the written agreement of the City Council to a scheme for the provision of 9 of the dwellings within the Development (units [IDENTIFY UNITS] as shown on dwg no [IDENTIFY DWG NO] as Affordable Housing (“the Affordable Housing Scheme”) such scheme to provide:

1.2.1 that each of the dwellings comprising the Affordable Housing is social rented housing complying with the definition in the glossary to the Sites

and Housing Local Plan (February 2013) (“Social Rented Housing”) providing that:

- (a) [X] of the Affordable Housing shall be 1 bedroom (2 person) Social Rented Housing comprising units [XXXXXX];
- (b) [9-X] of the Affordable Housing shall be 2 bedroom (4 person) Social Rented Housing comprising units [XXXXXX]; and
- (c) showing that at least one of the dwellings comprising the Affordable Housing will be fully wheelchair accessible, or of a design that allows future adaptation to become fully wheelchair accessible.

1.2.2 the contractual arrangements with a registered provider of social housing within the meaning of the Housing and Regeneration Act 2008 (including for the avoidance of doubt the City Council) (“Registered Provider”) for the delivery (both construction and for grant of lease (including form of proposed lease) of not less than one hundred and twenty-five (125) years) of the Affordable Housing including a copy of such completed contract certified as a true copy by a solicitor; and

1.2.3 the servicing arrangements of the Affordable Housing and the allocation of responsibility for such servicing and the cost of such servicing.

1.3 In the event that the Registered Provider is not the City Council the Owner shall not cause or permit the Commencement of Development or continuance of the Development prior to that Registered Provider having entered into a framework agreement applicable to the Affordable Housing to be provided hereunder with the City Council for partnership working in relation to the operation of a shared register of people in need of Affordable Housing in the administrative area of the City Council and the allocation of Social Rented Housing.

1.4 Subject to the provisions of paragraph 1.6, the Owner shall not cause or permit the occupation of more than seven (7) of Market Housing Units shall be Occupied until six (6) of the dwellings comprising the Affordable Housing have been fully constructed and are finished ready for immediate residential occupation in accordance with the Affordable Housing Scheme and (as regards those six (6) dwellings) the leasehold interest of those dwellings comprised within the Affordable Housing have been transferred to the Registered Provider such grant to be prepared by solicitors instructed by the Owner and at the cost of the Owner in substantially the form of that referred to in paragraph 1.2.2 above.

- 1.5 Subject to the provisions of paragraph 1.6, the Owner shall not cause or permit the occupation of more than ten (10) of the Market Housing Units authorised by the Permission until all nine (9) of the dwellings comprising the Affordable Housing have been fully constructed and are finished ready for immediate residential occupation in accordance with the Affordable Housing Scheme and (as regards those nine dwellings) the leasehold interest of those dwellings comprised within the Affordable Housing have been transferred to the Registered Provider such grant to be prepared by solicitors instructed by the Owner and at the cost of the Owner in substantially the form of that referred to in paragraph 1.2.2 above.
- 1.6 Subject to the provisions of this paragraph 1.6 from the date of Practical Completion of the Affordable Housing Units they shall not be used other than for Affordable Housing other than by:
- 1.6.1 any Protected Tenant or any mortgagee or chargee of the Protected Tenant or any person deriving title from the Protected Tenant or any successor in title thereto and their respective mortgagees and chargees; or
- 1.6.2 any purchaser from a mortgagee of an individual Affordable Housing Unit pursuant to any default by the individual mortgagor.
- 1.7 The Owner will procure that all dwellings comprised within the Affordable Housing shall:
- 1.7.1 meet all requirements of Homes and Community Agency Design Quality Standards and Housing Quality Indicators that (were that Agency funding their provision) would be applicable to them;
- 1.7.2 comply with Lifetime Homes standards then applicable; and
- 1.7.3 show compliance with Secure By Design standards then applicable.
- 1.8 The Owner shall not cause permit or allow occupation of any dwelling comprised within the Affordable Housing other than as Social Rented Housing in accordance with the Affordable Housing Scheme.
- 1.9 Any Chargee shall prior to seeking to dispose of the Affordable Housing Units pursuant to any default under the terms of its mortgage or charge shall give not less than three (3) months' prior notice to the Council of its intention to dispose and:
- 1.9.1 in the event that the Council responds within one (1) month from receipt of the notice indicating that arrangements for the transfer of the Affordable Housing Units can be made in such a way as to safeguard them as

Affordable Housing then the Chargee shall co-operate with such arrangements and use its best endeavours to secure such transfer; or

1.9.2 if the Council does not serve its response to the notice served under paragraph 1.9.1 within one (1) month then the Chargee shall be entitled to dispose free of the restrictions set out in this Part of the Third Schedule which shall from the time of completion of the disposal cease to apply; or

1.9.3 if the Council or any other person cannot within three (3) months of the date of service of its response under paragraph 1.9.1 secure such transfer then provided that the Chargee shall have complied with its obligations under paragraph 4.4(a) the Chargee shall be entitled to dispose free of the restrictions set out in this Part of the Third Schedule which shall from the time of completion of the disposal cease to apply.

PROVIDED THAT at all times the rights and obligations in paragraphs 1.9.1 - 1.9.3 shall not require the Chargee to act contrary to its duties under the charge or mortgage and that the Council must give full consideration to protecting the interest of the Chargee in respect of moneys outstanding under the charge or mortgage

2. Costs

2.1 The Owner shall pay to the City Council on completion of this Agreement the sum of [XXXXX] being a contribution towards the costs of the City Council in connection with the administration and management of this Agreement (including the payments further to this Agreement) [Calculated as per SPD]

3. Notifications

3.1 The Owner shall not cause or permit the commencement or continuance of the Development unless the Owner has given notice of commencement of the Development to the City Council such notice specifying the intended date for commencement.

3.2 The Owner shall give notice to the City Council of any disposal of his interest in the Land (or part thereof) or any other event giving rise to a successor in title (other than disposals of individual dwellings) providing the name and address of that successor the date of disposal and a plan identifying the land affected such notice to be provided within fourteen (14) days of the disposal or other event giving rise to a successor in title.

- 3.3 On each anniversary of Commencement of Development until completion of the Development the Owner shall give notice to the City Council identifying the extent to which the Development has been executed

4. Bridge

- 4.1 The Owner shall not cause or permit the Commencement of Development or continuance of the Development unless the written approval of the City Council has been obtained for a scheme ("the Bridge Scheme") for the provision of a bridge ("the Bridge") across the canal in the approximate position shown marked on the plan annexed hereto (or in such alternative position as the City Council may from time to time agree in writing) such scheme to provide for consultation and approval of the item or items comprising the Bridge (including design appearance materials and location) commissioning execution of all required works for the item or items comprising the bridge and subsequent maintenance (and call out arrangements in the event of mechanical failure) including a timetable for each stage by reference to time from Commencement of Development and/or prior to the commencement/completion/ occupation of specified elements of the Development.
- 4.2 The Owner shall ensure that the approved scheme referred to in paragraph 4.1 above is executed in its entirety to the satisfaction of the City Council (acting reasonably) and shall notify the Council of the completion of the Bridge
- 4.3 In the event that there is an extant breach of the approved scheme referred to in paragraph 4.1 above the Owner shall not cause or permit any further works for the execution of the Development or the occupation of any part of the Development not previously occupied.

5. Public Open Space

- 5.1 The Owner shall not cause or permit the Commencement of Development or continuance of the Development prior to obtaining the written approval of the City Council to a public open space scheme in accordance with the scheme shown on [DWG NO] such scheme to provide:
- 5.1.1 the locations and details of each area of amenity and/or recreational open space (providing specifications of equipment where equipment is proposed) proposed within the Land as part of the Development sufficient to ensure that the needs of all those likely to use the Development will be met; and

- 5.1.2 a timetable for the provision of the open space scheme by reference to each element being available for functional public use to the reasonable satisfaction of the City Council either prior to a defined part of the Development being commenced or occupied for the purpose permitted by the Permission.
- 5.2 The Owner shall comply fully with all aspects of the approved scheme referred to in paragraph 5.1 above and shall notify the City Council of each element of the approved scheme referred to in paragraph 5.1 above first being made available for public use.
- 5.3 The Owner shall in respect of each element of the approved scheme referred to in paragraph 5.1 above from the date on which it is first made available for public use:
- 5.3.1 keep it available for free public use at all times restricting public access only as may be required by law or as otherwise agreed in advance in writing with the City Council; and
- 5.3.2 maintain it such that it does not materially deteriorate.
- 5.4 The Owner shall not cause or permit the commencement or carrying on of any works for the provision of any element of the approved scheme referred to in paragraph 5.1 above prior to obtaining the written approval of the City Council to a mechanism to ensure future compliance with the obligations of the Owner pursuant to paragraphs 5.3.1 and 5.3.2 above.
- 5.5 In the event that there is an extant breach of the approved scheme referred to in paragraph 5.1 above the Owner shall not cause or permit any further works for the execution of the Development or the occupation of any part of the Development not previously occupied.

6. Canal Works

- 6.1 The Owner shall not cause or permit the Commencement or continuance of the Development prior to obtaining the written approval of the City Council to a scheme ("the Canal Works Scheme") for the provision of a winding hole capable of providing a turning area for boats of up to 22 metres in length, the improvement works to the canal edge and the provision of replacement moorings in consequence of the provision of the Bridge ("the Canal Works") such scheme to provide:
- 6.1.1 the locations and details of each element of the works comprised within the Canal Works;

- 6.1.2 a timetable for the provision of each element by reference to such element being completed to the reasonable satisfaction of the City Council either prior to a defined part of the Development being commenced or occupied for the purpose permitted by the Permission; and
 - 6.1.3 post completion maintenance and protection arrangements,
- 6.2 The Owner shall comply fully with all aspects of the Canal Works Scheme referred to in paragraph 6.1 above to the satisfaction of the City Council and shall notify the City Council of each element of the approved scheme referred to in paragraph 6.1 above being completed.
- 6.3 In the event that there is an extant breach of Canal Works Scheme the Owner shall not cause or permit any further works for the execution of the Development or the occupation of any part of the Development not previously occupied.

7. Dog Bin and Sign

- 7.1 The Owner shall not cause or permit the Commencement or continuance of the Development prior to paying to the City Council the sum of £1000 as a contribution to the cost of dog litter bins and an information board at the Walton Well Road entrance to Port Meadow.

8. Community Centre

- 8.1 The Owner shall not cause or permit the Commencement of Development or continuance of the Development prior to offering to enter into an agreement for lease in substantially the form annexed (the Agreement for Lease) such offer to remain open for acceptance for three (3) months.
- 8.2 In the event that the offer referred to in paragraph 8.1 above is not accepted:
- 8.2.1 within three (3) months of the Commencement of the Development the Owner shall not continue the Development more than four (4) months after commencement unless and until he has submitted the names of alternative potential lessees (up to three); or
 - 8.2.2 within fourteen (14) days of the City Council given written notice approving any one or more of those potential lessees the Owner shall offer to enter into the transfer the Agreement for Lease with one of those approved lessees such offer to remain open for acceptance for three (3) months.

8.3 The Owner shall not cause or permit the residential occupation of any part of the Development prior to entering into the Agreement for Lease to the Jericho Wharf Trust or any other lessee approved under paragraph 8.2 above or to the City Council.

Schedule Four

City Council's Covenants

At the written request of the Owner the City Council shall provide written confirmation of the discharge of the obligations contained in this Agreement when satisfied that such obligations have been performed.

Executed as a Deed by
Affixing the common seal of
Cheer Team Corporation Limited
in the presence of:

.....
Director

.....
Director / Secretary

THE COMMON SEAL of THE
OXFORD CITY COUNCIL was
affixed to this deed by order of
the Council in the presence of:

.....
Nominated Officer

(1) CHEER TEAM CORPORATION LIMITED

(2) [TENANT]

AGREEMENT FOR LEASE WITH LANDLORD'S
WORKS

relating to

Land at the Jericho Boat Yard, Land at the East Side of
the Oxford Canal, Jericho, Oxford



**PENNINGTONS
MANCHES**

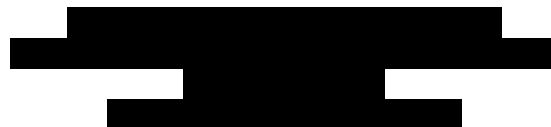


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is made between the following parties :

- (1) **CHEER TEAM CORPORATION LIMITED** incorporated and registered in Hong Kong with company number 1890409 whose registered office is at [REGISTERED OFFICE ADDRESS] (**Landlord**); and
- (2) **[FULL COMPANY NAME]** incorporated and registered in England and Wales with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] (**Tenant**); and

Background:

The Landlord owns the freehold of the land and buildings on Land to the East of The Oxford Canal, Jericho, Oxford known as The Jericho Boat Yard and has agreed to grant the Tenant a lease of the Property on the terms contained in this Agreement.

Now it is agreed as follows:

1. Interpretation

The following definitions and rules of interpretation apply in this Agreement.

1.1 Definitions:

Architect	[NAME] of [ADDRESS] or such other person as may be appointed as a replacement architect for the time being by the Landlord [or the Building Contractor][, with the approval of the Tenant (such approval not to be unreasonably withheld or delayed),] in relation to this Agreement and the Building Contract;
Base Rate	the higher of 5% and the base rate from time to time of Barclays Bank PLC;
Building Contract	to be entered into [as a deed] between the Landlord and the Building Contractor based on the [JCT Design and Build Contract, 2011 edition] and incorporating such amendments as may be approved in writing by the Tenant (such approval not to be unreasonably withheld or delayed) or such other building contract with similar effect as may be approved by the Tenant (such approval not to be unreasonably withheld or delayed);
Building Contractor	Such building contractor as may be appointed by

	the Landlord to carry out the Landlord's Works together with any replacement building contractor that may be appointed by the Landlord in accordance with the terms of this Agreement;
CDM Regulations	the Construction (Design and Management) Regulations 2015 (<i>SI 2015/51</i>);
Collateral Warranties	deeds of collateral warranty from the parties identified in the relevant annex to this Agreement together with any replacement party that may from time to time be appointed by the Landlord or the Building Contractor be in the agreed forms annexed to this Agreement;
Condition	any one of the Part 1 Conditions;
Contract Rate	4% per annum above the Base Rate;
Design Sub-Contractors	all sub-contractors of the Building Contractor having a design responsibility in relation to the Landlord's Works under the Building Contract;
Development	The re-development of the Landlord's Property pursuant to the Planning Permission;
Development Specification	the plans, specifications, drawings and other data in respect of that part of the Development in the form annexed to this Agreement including any variations or amendments that may be made in accordance with clause 3.4 and clause 3.5;
Employer's Agent	[NAME] of [ADDRESS] or such other person as may be appointed as a replacement employer's agent for the time being by the Landlord in relation to this Agreement and the Building Contract;
Event of Default	any of the events set out in clause 18.1;
Internal Area	the gross internal area in square feet of the Property (calculated in accordance with the RICS Code of Measuring Practice, 6th edition);
Landlord's Conveyancer	Penningtons Manches LLP, [REDACTED] [REDACTED] any other conveyancer whose details may be notified in writing from time to time by the Landlord to the Tenant;
Landlord's Property	the land and premises known as the Jericho Boat Yard at the East Side of Oxford Canal shown edged [in blue] on the Landlord's Property Plan and more particularly described in the Lease;
Landlord's Property Plan	the plan annexed to this Agreement marked "Landlord's Property Plan";

Landlord's Works	the works to construct the Development on the Property and the Landlord's Property to be carried out by the Landlord in accordance with the Property Specification and the Development Specification;
Lease	a lease of the Property to be granted to the Tenant by the Landlord on the Lease Completion Date in substantially the form annexed to this Agreement subject to amendments as are from time to time agreed in writing by or on behalf of the parties or are made necessitated by any variations made to the Development Specification under 3.5
Lease Completion Date	the day that is ten working days after the Practical Completion Date provided that the Tenant has given to the Landlord no later than three working days after the Practical Completion Date a Satisfactory Funding Certificate;
Licence Period	the period from but excluding the Practical Completion Date until completion of the Lease;
Licence to Carry out Works	a licence to carry out works between the Landlord and Tenant in substantially the form annexed to this Agreement;
M&E Engineer	[NAME] of [ADDRESS] or such other person as may be appointed as a replacement mechanical and electrical engineer for the time being by the Landlord [or the Building Contractor in relation to this Agreement and the Building Contract;
Material	all designs, drawings, models, plans, specifications, design details, photographs, brochures, reports, notes of meetings, CAD materials, calculations, schedules, programmes, bills of quantities, budgets and any other materials provided in connection with the Landlord's Works and all updates, amendments, additions and revisions to them and any works, designs, or inventions incorporated or referred to in them for any purpose relating to the Landlord's Works;
Notice of Completion of Making Good	the Employer's Agent's certificate or written statement issued in accordance with the Building Contract certifying that any defects, shrinkages or faults appearing in the Landlord's Works during the Rectification Period and for which the Building Contractor was responsible under the Building Contract have been made good;
Part 1 Conditions	part 1 of the Standard Commercial Property Conditions (Second Edition);
Part 2 Conditions	part 2 of the Standard Commercial Property

	Conditions (Second Edition);
Planning Agreement	the Section 106 Agreement made between (1) [] and (2) [] dated [] 2015;
Planning Permission	detailed planning permission for the Development [Reference:] dated [] 2015;
Practical Completion Date	the date stated in the Practical Completion Statement;
Practical Completion Statement	the Employer's Agent's written statement issued in accordance with the Building Contract stating that sectional completion of the Landlord's Works has occurred according to the terms of the Building Contract and setting out the date on which sectional completion occurred;
Principal Designer	[NAME] of [ADDRESS] or such other person as may be appointed as a replacement principal designer for the time being by the Landlord for the purposes of this Agreement and the CDM Regulations;
Professional Appointment	the appointment of a member of the Professional Team substantially in the forms of the relevant and appropriate drafts annexe ;
Professional Team	the Architect, the Principal Designer, the Employer's Agent, the M&E Engineer, the Quantity Surveyor, the Structural Engineer and any other specialist advisors or sub-consultants that may, with the approval of the Tenant (not to be unreasonably withheld or delayed), be appointed for the time being in connection with the design and/or management of the Development;
Property	the property to be known as the Community Centre, First Floor and Second Floors, Jericho Boat Yard as more particularly defined in the Lease;
Quantity Surveyor	[NAME] of [ADDRESS] or such other person as may be appointed as a replacement quantity surveyor for the time being by the Landlord or Building Contractor, in relation to this Agreement and the Building Contract;
Rectification Period	the defects liability period or rectification period for the making good of defects, shrinkages or other faults in the Landlord's Works under the Building Contract;
Rent	a peppercorn if so demanded by the Landlord;
Rent Commencement Date	the Lease Completion Date;

Requisite Consents	building regulation approvals, by-law approvals, and any other consents, licences and authorisations required from any competent authority, statutory undertaker or person for the carrying out of the Landlord's Works or, as the case may be, the Tenant's Works;
RICS	Royal Institution of Chartered Surveyors;
Satisfactory Funding	pursuant to clause 13, to the Landlord's reasonable satisfaction funding of no less than [£5,000,000.00 (five million pounds)] to enable the Tenant to finance, commence and complete the Tenant's Works in accordance with the Licence to Carry Out Works after the Completion Date without delay
Satisfactory Funding Certificate	a certificate provided by the Tenant to the Landlord within 5 working days of Practical Completion with satisfactory documentary evidence which confirms to the Landlord's reasonable satisfaction that the Tenant has Satisfactory Funding in place
Structural Engineer	[NAME] of [ADDRESS] or such other person as may be appointed as a replacement structural engineer for the time being by the Landlord [or the Building Contractor in relation to this Agreement and the Building Contract;
Tenant's Conveyancer	[NAME, ADDRESS, FAX NUMBER, REFERENCE] [or any other conveyancer whose details may be notified in writing from time to time by the Tenant to the Landlord];
Tenant's Surveyor	[NAME, ADDRESS, FAX NUMBER, REFERENCE] [or any other surveyor whose details may be notified in writing from time to time by the Tenant to the Landlord];
Tenant's Works	the construction works to be carried out by the Tenant after the Lease Completion Date in accordance with the Licence to Carry out Works;
Third Party	a person other than: <ul style="list-style-type: none"> (a) the Landlord; or (b) the Tenant; or (c) anyone acting on the Landlord's or Tenant's behalf.
VAT	value added tax chargeable under the Value Added Tax Act 1994 and any similar replacement tax and any similar additional tax;

- 1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of this Agreement.
- 1.3 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 The Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Schedules.
- 1.5 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.6 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.7 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.8 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.9 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.10 A reference to writing or written includes fax but not e-mail.
- 1.11 References to a document in agreed form are to that document in the form agreed by the parties.
- 1.12 A reference to this Agreement or to any other agreement or document referred to in this Agreement is a reference to this Agreement or such other agreement or document as varied or novated (in each case, other than in breach of the provisions of this Agreement) from time to time.
- 1.13 Unless the content otherwise requires, references to clauses, Schedules and Annexes are to the clauses, Schedules and Annexes of this Agreement and references to paragraphs are to paragraphs of the relevant Schedule.
- 1.14 Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.15 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.

- 1.16 Unless this Agreement otherwise expressly provides, a reference to the Property or the Landlord's Property or the Development or the Landlord's Works or the Tenant's Works is to the whole and any part of them.
- 1.17 Any reference to the Landlord's consent or approval being required is to a consent or approval in writing which must be obtained before the relevant act is taken or event occurs.

2. Agreement For Lease

- 2.1 In consideration of the Tenant's obligations under this Agreement, the Landlord shall grant to the Tenant and the Tenant shall accept from the Landlord the Lease on the terms set out in this Agreement. No purchase price, premium, or deposit is payable.
- 2.2 The Tenant cannot require the Landlord to grant the Lease to any person other than the Tenant (here meaning [COMPANY NAME], incorporated and registered in England and Wales with company number [NUMBER], only).
- 2.3 The Tenant cannot assign, sublet, charge, or otherwise share or part with the benefit of this Agreement whether in relation to the whole or any part of the Property.
- 2.4 Conditions 1.5 and 2.2 do not apply to this Agreement.

3. Landlord's Works

- 3.1 The Landlord shall apply for and use reasonable endeavours to obtain the Requisite Consents in respect of the Landlord's Works.
- 3.2 The Landlord shall use reasonable endeavours to procure that the Landlord's Works are carried out:
- 3.2.1 with due diligence and in a good and workmanlike manner;
 - 3.2.2 using only good quality materials and well-maintained plant and equipment;
 - 3.2.3 in accordance with this Agreement, the Planning Permission, the Development Specification and the Requisite Consents in respect of the Landlord's Works;
 - 3.2.4 in accordance with all statutory or other legal requirements and the recommendations or requirements of the local authority or statutory undertakings;

- 3.2.5 in compliance with all relevant British Standards, codes of practices and good building practice; and
 - 3.2.6 by selecting and using materials so as to avoid known hazards to the health and safety of any person and to ensure the long term integrity of the Property and the Landlord's Property.
- 3.3 The Landlord shall:
- 3.3.1 co-ordinate or procure co-ordination of the Professional Team;
 - 3.3.2 keep the Tenant's Surveyor informed as to progress of the Landlord's Works;
 - 3.3.3 promptly notify the Tenant's Surveyor of any material problems or delays in the performance of the Building Contract
- 3.4 The Landlord shall not, (subject to clause 3.5), vary, alter, add to or remove anything from the Development Specification without the Tenant's consent (such consent not to be unreasonably withheld or delayed).
- 3.5 The Landlord may make minor variations to the Development Specification without the Tenant's consent provided that:
- 3.5.1 the variations are insubstantial and immaterial and will not adversely affect the Property and the Tenant's proposed use thereof;
 - 3.5.2 the variations are in accordance with the Satisfactory Planning Permission, the Requisite Consents in respect of the Landlord's Works and any statutory requirements;
 - 3.5.3 any substitute materials used are of an equal or better quality and suitability to those originally specified;
 - 3.5.4 the variations do not delay the completion of the Landlord's Works;
 - 3.5.5 the Landlord informs the Tenant of the variations within a reasonable time; and
 - 3.5.6 the variations are required by any local or competent authority or statutory undertaking as a condition of the grant or continuance of the Satisfactory Planning Permission or any of the Requisite Consents in respect of the Landlord's Works.

4. Inspection

- 4.1 The Tenant and the Tenant's Surveyor may enter the Property, at any time after the commencement of the Landlord's Works, upon reasonable notice and at reasonable times to the Building Contractor, to inspect progress of the Landlord's Works and the materials used. In entering the Property, the Tenant and Tenant's Surveyor shall not obstruct progress of the Landlord's Works and shall:
- 4.1.1 not give any instructions or make any representations directly to the Building Contractor or Professional Team; and
 - 4.1.2 comply with the Landlord and Building Contractor's health and safety and site rules.
- 4.2 The Landlord shall procure that any instructions or representations made to the Landlord by the Tenant or the Tenant's Surveyor that comply with the terms of this Agreement are promptly dealt with to the Tenant's reasonable satisfaction.

5. Professional Team

- 5.1 The Landlord confirms it has taken (or in the case of a substitute member of the Professional Team shall take) all reasonable steps to be reasonably satisfied that each member of the Professional Team is suitable and competent having regard to its responsibilities in relation to the Development and the Building Contract.
- 5.2 Subject to clause 5.1, the Landlord shall once such of the Requisite Consents have been obtained so as to enable the Landlord's Works to commence appoint the members of the Professional Team.
- 5.3 The Landlord shall use reasonable endeavours to procure that each member of the Professional Team grants to the Tenant an irrevocable, non-exclusive, non-terminable, royalty-free licence to copy and make full use of any Material prepared by or on behalf of the relevant member of the Professional Team for any purpose relating to the Landlord's Works. Such licence shall:
- 5.3.1 carry the right to grant sub-licences and shall be transferable to third parties without the consent of the Landlord or the relevant member of the Professional Team; and
 - 5.3.2 provide that the relevant member of the Professional Team has no liability for use of the Material for any purpose other than that for which it was prepared or provided.

- 5.4 The Landlord shall use reasonable endeavours to procure that each member of the Professional Team performs and observes the terms of its Professional Appointment.
- 5.5 The Landlord shall not do or omit to do anything that would entitle any member of the Professional Team to regard its employment under its Professional Appointment as terminated.
- 5.6 The Landlord shall not terminate the employment of any member of the Professional Team under its Professional Appointment or treat such Professional Appointment as repudiated without first notifying the Tenant of its intention to do so.

6. Building Contract

- 6.1 The Landlord confirms it has taken (and in the case of a substitute Building Contractor shall take), all reasonable steps to be reasonably satisfied that the Building Contractor is suitable and competent having regard to its responsibilities in relation to the Development and the Building Contract.
- 6.2 The Landlord shall once such of the Requisite Consents have been obtained so as to enable the Landlord's Works to commence enter into the Building Contract with the Building Contractor, appoint the Building Contractor as the principal contractor for the purposes of the CDM Regulations, and supply a certified copy of the Building Contract to the Tenant.
- 6.3 The Landlord shall use reasonable endeavours to procure that the Building Contractor and each Design Sub-Contractor grants to the Tenant an irrevocable, non-exclusive, non-terminable, royalty-free licence to copy and make full use of any Material prepared by or on behalf of the Building Contractor or the relevant Design Sub-Contractor for any purpose relating to the Landlord's Works. Such licence shall:
- 6.3.1 carry the right to grant sub-licences and shall be transferable to third parties without the consent of the Building Contractor or the relevant Design Sub-Contractor; and
- 6.3.2 provide that the Building Contractor or the relevant Design Sub-Contractor has no liability for use of the Material for any purpose other than that for which it was prepared or provided.
- 6.4 The Landlord shall reasonable endeavours to procure that the Building Contractor performs and observes the terms of the Building Contract.

6.5 The Landlord shall not do or omit to do anything that would entitle the Building Contractor to regard the Building Contract as terminated by breach. The Landlord shall immediately notify the Tenant if the Landlord believes the Building Contractor may be intending to rescind the Building Contract.

6.6 The Landlord shall not terminate the employment of the Building Contractor or treat the Building Contract as repudiated without first notifying the Tenant of its intention to do so.

7. Practical Completion And Rectification Period

7.1 The Landlord shall use reasonable endeavours to procure that the Employer's Agent:

7.1.1 gives at least 5 working days' notice to the Tenant of the Employer's Agent's intention to inspect the Landlord's Works for the purpose of issuing the Practical Completion Statement and allows the Tenant and the Tenant's Surveyor to attend the inspection and make representations to the Landlord either during the inspection or in writing immediately thereafter; and

7.1.2 without fettering the discretion of the Employer's Agent in carrying out duties under the Building Contract, takes proper account of any representations that are made in accordance with clause 7.1.1 when considering whether to issue the Practical Completion Statement in accordance with the terms of the Building Contract.

7.2 The Landlord shall use reasonable endeavours to procure that the Employer's Agent gives a copy of the Practical Completion Statement to the Tenant as soon as practicable after its issue.

7.3 The issue of the Practical Completion Statement shall be conclusive evidence binding on the parties that the Landlord's Works have been completed in accordance with the terms of this Agreement, subject to the Landlord's obligations during the Rectification Period.

7.4 Without prejudice to the generality of clause 6.4, the Landlord shall use reasonable endeavours to enforce the Building Contractor's obligations under the Building Contract to remedy any defects, shrinkages or faults appearing in the Landlord's Works during the Rectification Period.

7.5 During the Rectification Period, the Tenant or the Tenant's Surveyor may make written representations to the Landlord identifying defects, shrinkages or faults in the

Landlord's Works which the Building Contractor is obliged to remedy in accordance with the Building Contract. Without fettering the discretion of the Employer's Agent in carrying out duties under the Building Contract, the Landlord shall use reasonable endeavours to ensure that the Employer's Agent takes proper account of any such representations.

7.6 The Landlord shall use reasonable endeavours to procure that the Employer's Agent:

7.6.1 gives at least [5] working days' notice to the Tenant of the Employer's Agent's intention to inspect the Landlord's Works for the purpose of issuing the Notice of Completion of Making Good and allows the Tenant and the Tenant's Surveyor to attend the inspection and make representations to the Landlord either during the inspection or in writing immediately thereafter; and

7.6.2 without fettering the discretion of the Employer's Agent in carrying out duties under the Building Contract, takes proper account of any representations that are made in accordance with clause 7.6.1 when considering whether to issue the Notice of Completion of Making Good in accordance with the terms of the Building Contract.

7.7 The Landlord shall use reasonable endeavours to procure that the Employer's Agent gives a copy of the Notice of Completion of Making Good to the Tenant as soon as practicable after its issue.

7.8 The Landlord shall use reasonable endeavours to procure the grant of the Collateral Warranties in favour of the Tenant on or before the date on which the Lease is completed.

8. Insurance

Conditions 7.1.1, 7.1.2, 7.1.3 and 7.1.4(b) do not apply to this Agreement.

9. Damage After Practical Completion

9.1 The Tenant shall not be entitled to refuse to complete or to delay completion of the grant of the Lease due to any event occurring after the Practical Completion Date that results in:

9.1.1 any damage to the Landlord's Works or any part of it;

9.1.2 any damage to the means of access to the Property;

9.1.3 any deterioration in the Property's condition.

9.2 The provisions in the Lease relating to insurance of the Property shall apply from the Practical Completion Date to the date of grant of the Lease.

10. Landlord's Obligations

10.1 The Landlord's obligations in clause 5 to clause 10 are personal and binding only on Cheer Team Corporation Limited, incorporated and registered in England and Wales with company number (Hong Kong company number 1890409) whose registered office is at [REGISTERED OFFICE ADDRESS].

10.2 Cheer Team Corporation Limited shall be released from all liability in respect of its obligations referred to in clause 10.1 after a period of 3 months after the Practical Completion Date, except in relation to any claim made against or notified to it prior to the end of that period.

11. Development Of The Landlord's Property

11.1 The Tenant:

11.1.1 acknowledges and accepts that the Landlord is intending to develop the whole of the Landlord's Property and that works at the Landlord's Property may continue after the Practical Completion Date; and

11.1.2 waives any right against the Landlord under the Lease or otherwise to claim damages, compensation or any other remedy arising from the disturbance, nuisance or inconvenience caused by such continuing works.

12. Conditions

12.1 The Part 1 Conditions are incorporated in this Agreement, in so far as they:

12.1.1 are applicable to the grant of a lease;

12.1.2 are not inconsistent with the other clauses in this Agreement; and

12.1.3 have not been modified or excluded by any of the other clauses in this Agreement.

12.2 The Part 2 Conditions are not incorporated in this Agreement.

12.3 Condition 1.1.1(d) is amended so that "completion date" means the "Lease Completion Date" as defined in this Agreement.

12.4 Condition 1.1.1(e) is amended so that reference to the contract rate in Condition 1.1.1(e) refers instead to the Contract Rate as defined in this Agreement.

12.5 Condition 1.1.4(a) does not apply to this Agreement.

13. Satisfactory Funding

The Tenant shall secure Satisfactory Funding no later than three months of the date hereof being [DN. Insert date 3 months from date of exchange] ("Satisfactory Funding Date") and shall provide written evidence of the same to the Landlord's reasonable satisfaction on or before the Satisfactory Funding Date.

14. Tenant's Works

14.1 From the date hereof the Tenant shall apply for and use best endeavours to obtain all Requisite Consents for the Tenant's Works.

14.2 The Tenant shall not commence any of the Tenant's Works until after the Lease Completion Date and until the Licence to Carry Out Works has been entered into.

14.3 The Tenant's Works shall be carried out in accordance with the Lease and the Licence to Carry Out Works.

15. Deducing Title

15.1 The Landlord's freehold title to the Property has been deduced to the Tenant's Conveyancer before the date of this Agreement.

15.2 The Tenant is deemed to have full knowledge of the Landlord's title and is not entitled to raise any objection, enquiry or requisition in relation to it.

15.3 Conditions 6.1, 6.2, 6.3, 6.4.2, 10.2.4, 10.2.5, and 10.3 do not apply to this Agreement.

16. Title Guarantee

16.1 The Landlord shall grant the Lease with full title guarantee.

16.2 The implied covenants for title are modified so that:

16.2.1 the covenant set out in section 2(1)(b) of the Law of Property (Miscellaneous Provisions) Act 1994 (LP(MP)A 1994) shall not extend to costs arising from the Tenant's failure to:

- (a) make proper searches; or
 - (b) raise requisitions on title or on the results of the Tenant's searches before the date of this Agreement (or by completion in the case of searches referred to in clause 17.1); and
- 16.2.2 the covenant set out in section 3(3) of the LP(MP)A 1994 shall extend only to charges or encumbrances created by the Landlord.
- 16.3 Condition 6.6.2 does not apply to this Agreement.

17. Matters Affecting The Property

- 17.1 The Landlord shall grant the Lease to the Tenant free from encumbrances other than:
- 17.1.1 any matters, other than financial charges, contained or referred to in the entries or records made in registers maintained by the Land Registry as at [DATE AND TIME OF OFFICIAL COPIES] under title number ON268665;
 - 17.1.2 all matters contained or referred to in the Lease;
 - 17.1.3 any matters discoverable by inspection of the Property before the date of this Agreement;
 - 17.1.4 any matters which the Landlord does not and could not reasonably know about;
 - 17.1.5 any matters, other than financial charges, disclosed or which would have been disclosed by the searches and enquiries that a prudent tenant would have made before entering into this Agreement;
 - 17.1.6 public requirements;
 - 17.1.7 any matters which are, or (where the Lease will not be registered) would be, unregistered interests which override first registration under Schedule 1 to the Land Registration Act 2002;
 - 17.1.8 any matters disclosed in the documents listed in Schedule 1; and
 - 17.1.9 any Planning Agreement.
- 17.2 The Tenant is deemed to have full knowledge of the matters referred to in clause 17.1 and shall not raise any enquiry, objection, requisition or claim in respect of any of them; and

17.3 Conditions 3.1.1, 3.1.2, 3.1.3, 3.2.1, 3.3 and 6.6.3 do not apply to this Agreement.

18. Termination On Tenant's Insolvency And Material Non-compliance By The Tenant

18.1 An Event of Default is any of the following:

18.1.1 the taking of any step in connection with any voluntary arrangement or any other compromise or arrangement for the benefit of any creditors of the Tenant;

18.1.2 the making of an application for an administration order or the making of an administration order in relation to the Tenant;

18.1.3 the giving of any notice of intention to appoint an administrator, or the filing at court of the prescribed documents in connection with the appointment of an administrator, or the appointment of an administrator, in any case in relation to the Tenant;

18.1.4 the appointment of a receiver or manager or an administrative receiver in relation to any property or income of the Tenant;

18.1.5 the commencement of a voluntary winding-up in respect of the Tenant [or Guarantor], except a winding-up for the purpose of amalgamation or reconstruction of a solvent company in respect of which a statutory declaration of solvency has been filed with the Registrar of Companies;

18.1.6 the making of a petition for a winding-up order or a winding-up order in respect of the Tenant;

18.1.7 the striking-off of the Tenant from the Register of Companies or the making of an application for the Tenant to be struck-off;

18.1.8 the Tenant.

18.2 If an Event of Default occurs, the Landlord may, at any time prior to grant of the Lease, determine this Agreement by giving written notice to the Tenant.

18.3 If at any time there is any material non-compliance by the Tenant with any of its obligations under this Agreement and such default is either:

18.3.1 not capable of being remedied; or

18.3.2 is capable of remedy but the Tenant has not remedied the default within ten working days (or such longer period as may be reasonable in the

circumstances) after service on the Tenant by the Landlord of a notice specifying the default;

the Landlord may, at any time prior to grant of the Lease, determine this Agreement by giving written notice to the Tenant.

- 18.4 If by 5.00pm on the Satisfactory Funding Date the Tenant has not been able to satisfy the condition contained in clause 13 the Landlord may terminate this Agreement by giving written notice to the Tenant.

19. Consequences Of Termination

- 19.1 If the Landlord gives notice to terminate this Agreement under clause 18.2 18.3 or 18.4.

19.1.1 subject to clause 19.1.2 this Agreement shall be terminated with immediate effect from the date of the notice to terminate and none of the parties shall have any further rights or obligations under this Agreement save for:

(a) the rights of any party in respect of any earlier breach of this Agreement; and

(b) the obligations in the clauses referred to in clause 19.1.2;

19.1.2 clause 15, clause 19 and clause 22 shall continue in force notwithstanding the termination of this Agreement under clause 19.1.1;

19.1.3 the Tenant shall immediately cancel all entries relating to this Agreement registered against the Landlord's title; and

19.1.4 the Tenant shall immediately:

(a) vacate the Property;

(b) remove all of the Tenant's chattels from the Property;

(c) (to the extent required by the Landlord) remove the Tenant's Works or any other fixtures constructed by or for the Tenant; and

(d) make good all damage caused by the Tenant as a result of such removal.

20. Timetable For Engrossments

20.1 The Landlord's Conveyancer shall send:

the engrossed counterpart Lease and Licence to Carry Out Works to the Tenant's Conveyancer within ten working days after the Practical Completion Date; and

20.2 The Tenant shall execute the counterpart Lease and Licence to Carry out Works within ten working days after the engrossed counterpart Lease and Licence to Carry out Works has been submitted to the Tenant's Conveyancer.

21. Completion Of Grant Of The Lease and the Licence to Carry out Works

Completion of the grant of the Lease and the Licence to Carry out Works shall take place on the Lease Completion Date.

21.1 If completion is delayed due to the Tenant's default or the Tenant fails to pay any sum due under this Agreement in full on completion, the Tenant shall pay interest in addition to damages for losses incurred by the Landlord as a result of the delayed completion. The interest shall be payable at the Contract Rate on any unpaid amount for the period from the Lease Completion Date to the date of actual payment.

21.2 Condition 8.7 is amended to read: "The Tenant is to pay the money due on completion to the Landlord's Conveyancer by a method that gives immediately available funds".

21.3 Condition 9.3 does not apply to this Agreement.

22. Legal Costs

The Tenant shall pay on a full indemnity basis the Landlord's legal costs and disbursements incurred in connection with this Agreement and the grant of the Lease plus an amount equivalent to VAT on them. The Tenant shall make the payment by cleared funds or by a conveyancer's client account cheque on the Lease Completion Date or, as the case may be, on the date of termination of this Agreement pursuant to clause the terminations provisions of this Agreement.

23. VAT

23.1 Each amount stated to be payable under or pursuant to this Agreement is exclusive of VAT (if any).

23.2 If any VAT is chargeable on any supply made by one party to the other party under or pursuant to this Agreement, the paying party shall pay to the other party an amount equal to that VAT.

23.3 Condition 1.4 does not apply to this Agreement.

24. Entire Agreement

24.1 This Agreement and the documents annexed to it constitute the whole agreement between the parties and supersede any previous arrangement, understanding or agreement between them relating to the subject matter of this Agreement.

24.2 The Tenant acknowledges that:

24.2.1 in entering into this Agreement, the Tenant has not relied on and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently) other than:

(a) as expressly set out in this Agreement or the documents annexed to it;
or

(b) in any written replies which the Landlord's Conveyancer has given to any written enquiries raised by the Tenant's Conveyancer before the date of this Agreement.;

24.2.2 no representation or warranty is given or is to be implied by:

(a) the Landlord entering into this Agreement; or

(b) any step taken by or on behalf of the Landlord in connection with this Agreement;

as to the suitability of the Property or the building of which it forms part for the Tenant's Works; and

24.2.3 nothing in this clause 24.2 shall limit or exclude any liability for fraud.

24.3 Condition 9.1.1 is varied to read "If any plan or statement in the agreement or in written replies which the Landlord's Conveyancer has given to any written enquiries raised by the Tenant's Conveyancer before the date of this Agreement is or was misleading or inaccurate due to any error or omission, the remedies available are as follows."

25. Joint And Several Liability

25.1 Where the Tenant comprises more than one person, those persons shall be jointly and severally liable for the obligations and liabilities of the Tenant arising under this Agreement. The Landlord may take action against, or release or compromise the liability of, or grant time or other indulgence to, any one of those persons without affecting the liability of any other of them.

25.2 Condition 1.2 does not apply to this Agreement.

26. Notices

26.1 Any notice or other communication required to be given under this Agreement shall be in writing and shall be delivered personally, or sent by pre-paid first class post or recorded delivery or by commercial courier, to each party required to receive the notice or communication as set out below:

26.1.1 Landlord: [CONTACT] [ADDRESS]

26.1.2 Tenant: [CONTACT] [ADDRESS]

or as otherwise specified by the relevant party by notice in writing to each other party.

26.2 Any notice or other communication shall be deemed to have been duly received:

26.2.1 if delivered personally, when left at the address and for the contact referred to in this clause;

26.2.2 if sent by pre-paid first class post or recorded delivery, at 9.00 am on the second working day after posting; or

26.2.3 if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.

26.3 A notice or other communication required to be given under this Agreement shall not be validly given if sent by e-mail.

26.4 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

26.5 Condition 1.3 does not apply to this Agreement.

27. Third Party Rights

A person who is not a party to this Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

28. Governing Law

This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

29. Jurisdiction

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

This agreement has been entered into on the date stated at the beginning of it.

Schedule 1

Disclosed Matters

[LIST MATTERS DISCLOSED UNDER clause 17.1.8.]

[Annex A

Copy Building Contract OR Agreed form of Building Contract]

[Annex B

List of parties required to give Collateral Warranties]

[Annex C

Agreed forms of Collateral Warranties]

This deed is made the _____ day of _____ 20____

Between:

- (1) [●Contractor] (Company number [●]) whose registered office is at [●] (the **Contractor**);
- (2) [●Beneficiary] (Company number [●]) whose registered office is at [●] (the **Beneficiary**); and
- (3) [●Employer] (Company number [●]) whose registered office is at [●] (the **Employer**).

Background:

- (A) The Employer has entered into or is about to enter into a Contract with the Contractor regarding the Works;
- (B) The Beneficiary [●provided finance] [●purchased or is about to purchase] [●entered into or is about to enter into a lease] [●regarding] [●the whole of] [●part of] the Works;
- (C) The Contractor has agreed to enter into this Deed for the benefit of the Beneficiary.

Operative provisions:

1 Definitions and interpretation

- 1.1 In this deed, unless the context otherwise requires, the following words have the following meanings:

Beneficiary	includes any person to whom the benefit of this Deed and/or any rights arising under it shall have been validly assigned in accordance with clause 6
Contract	the building contract entered into or about to be entered into between the Employer and the Contractor in relation to the Works
Design Documents	all drawings, details, plans, specifications, schedules, reports, models, bills of quantities, calculations, software and other work (and any designs, ideas, concepts and inventions contained in them whether patentable or not) which may be prepared, conceived or developed by or on behalf of the Contractor in the course of or as a result of carrying out the Works
Employer	includes any person to whom the benefit of the Contract has been validly assigned in accordance with its terms
Practical Completion	taking over of the Works as certified or otherwise evidenced pursuant to the terms of the Contract

Property	the location of the Works being [●]
Statutory Requirements	any requirements imposed by <ul style="list-style-type: none"> (a) any act of parliament, statutory instrument, rule or order made under any act of parliament; (b) any regulation or bye law or approved code of practice of any local authority, statutory undertaker or other body which has jurisdiction with regard to the Works or to whose systems the Works are or will be connected; or (c) the terms of any planning permission, building regulation approval or other consent or approval required for the execution of the Works
Works	the design and construction of the works as detailed in the Contract

1.2 In this deed, unless the context otherwise requires:

1.2.1 any obligation on a party to this Deed to do any act includes an obligation to procure that it is done;

1.2.2 the clause and paragraph headings in this Deed are for ease of reference only and are not to be taken into account in the construction or interpretation of any provision to which they refer;

1.2.3 unless the contrary intention appears, references:

(a) to numbered clauses and schedules are references to the relevant clause in, or schedule to, this Deed; and

(b) to a numbered paragraph in the schedule are references to the relevant paragraph in the schedule;

1.2.4 words in this Deed denoting the singular include the plural meaning and vice versa;

1.2.5 references in this Deed to any statutes or statutory instruments include any statute or statutory instrument amending, consolidating or replacing them respectively from time to time in force, and references to a statute include statutory instruments and regulations made pursuant to it;

1.2.6 words in this Deed importing one gender include both genders and may be used interchangeably, and words denoting persons, where the context allows, include corporations and vice versa.

2 Contractor's warranties

2.1 The Contractor warrants and undertakes to the Beneficiary that it has observed and performed and will continue to observe and perform each and all of the obligations on its part to be observed and performed under the Contract in accordance with the terms of the Contract, provided always that:

- 2.1.1 the Contractor shall owe no greater obligations to the Beneficiary under this Deed than it would have owed had the Beneficiary been named as a joint employer with the Employer under the Contract; and
- 2.1.2 the Contractor shall not be liable to the Beneficiary in respect of any delay to the completion of the Works unless and until the Beneficiary shall have given notice to the Contractor under clause 4.3.
- 2.2 Without limiting clause 2.1, the Contractor warrants and undertakes to the Beneficiary that:
- 2.2.1 insofar as the design of the Works is the responsibility of the Contractor under the Contract, it has exercised and will continue to exercise all such professional skill, care and diligence as may reasonably be expected of a skilled and competent architect, structural engineer, services engineer, acoustics engineer, landscape architect, fire consultant or as the case may be other appropriate professional designer holding itself out as competent to take on the design work of a similar type, nature and complexity to the Works;
- 2.2.2 using the standard of skill and care set out in clause 2.2.1, there has not been used or specified for use or authorised or permitted to be used in the Works or any part or parts thereof nor shall there be cause to use or suffer the use of any substances or materials:
- (a) known or suspected to be in themselves or as a result of the manner of their use a hazard to health;
- (b) which at the time the works are being carried out are within the building industry generally known or accepted as or reasonably suspected of:
- (i) being deleterious in themselves;
- (ii) becoming deleterious when used in a particular situation in combination with other substances or materials and with passage of time or through poor workmanship during construction or without a higher level of maintenance than that which would normally be expected in works of the type under construction; or
- (iii) being damaged by or causing damage to the structure on which they are incorporated or to which they are affixed;
- 2.2.3 for the purposes of clause 2.2.2 **deleterious** materials or substances are those whose durability is lower than specified or lower than might reasonably be expected of a substance or material specified or used for the purpose in which it is used or specified in the Works, or one which reduces or might reduce the durability of substances or materials to which they are applied or fixed, or reduce the durability of the structures into which they are incorporated or which reduce or might reduce the durability of the Works or part of the Works.
- 2.2.4 the Works as completed will in all respects comply with the Statutory Requirements;
- 2.2.5 it shall not raise any defence to a claim by the Beneficiary under this Deed on the grounds that the losses in respect of which the Beneficiary seeks damages, compensation or other relief are not losses suffered or to be suffered by the Employer or that the Employer has suffered no loss. The Contractor shall not be entitled to rely upon set off, counterclaim or defence arising from non-payment by the Employer of any monies due under the Contract.
- 2.3 The Contractor extends to the Beneficiary the benefit of all warranties and undertakings on the part of the Contractor contained in the Contract.
- 2.4 The Contractor acknowledges that the Beneficiary shall be deemed to have relied and shall continue to rely upon the warranties and undertakings given by the Contractor under this clause 2.

- 2.5 The Contractor acknowledges to the Beneficiary that, at the date of this Deed, the Contract remains in full force and effect and the Employer has paid all sums properly due to the Contractor under the Contract.

3 Obligations prior to determination of the Contractor's employment

- 3.1 The Contractor covenants with the Beneficiary that it will not exercise nor seek to exercise any right to determine its employment under the Contract or to discontinue the performance of any of its obligations in relation to the Works for any reason, including any breach on the part of the Employer, without giving to the Beneficiary not less than 28 days' notice of its intention to do so and specifying the grounds for the proposed determination or discontinuance.
- 3.2 Any period, whether stipulated in the Contract or otherwise, for the exercise by the Contractor of a right of determination shall be extended, as may be necessary, to take account of the period of notice required under clause 3.1.
- 3.3 Compliance by the Contractor with clause 3.1 shall not be treated as a waiver of any breach on the part of the Employer giving rise to the right of determination, nor otherwise prevent the Contractor from exercising its rights after the expiration of notice, unless the right of determination shall have ceased under the provisions of clause 4.

4 Step in right

- 4.1 The right of the Contractor to determine its employment under the Contract shall cease if, within the period of 28 days referred to in clause 3.2, the Beneficiary shall give notice to the Contractor:
- 4.1.1 requiring it to continue its obligations under the Contract;
 - 4.1.2 acknowledging that the Beneficiary is assuming all the obligations of the Employer under the Contract; and
 - 4.1.3 undertaking to the Contractor to discharge all payments which may subsequently become due to the Contractor under the terms of the Contract and to pay to the Contractor any sums which have become due and payable to it under the Contract but which remain unpaid.
- 4.2 Upon the compliance by the Beneficiary with the requirements of clause 4.1 the Contract shall continue in full force and effect as if the right of determination on the part of the Contractor had not arisen and in all respects as if the Contract had been entered into between the Contractor and the Beneficiary to the exclusion of the Employer.
- 4.3 Notwithstanding that as between the Contractor and the Employer the Contractor's right of determination of its employment under the Contract may not have arisen the provisions of clause 4.2 shall apply if the Beneficiary gives notice to the Contractor and the Employer to that effect and the Beneficiary complies with the requirements on its part under clause 4.1.
- 4.4 The Contractor shall be bound to assume that, as between the Employer and the Beneficiary, circumstances have occurred which permit the Beneficiary to give notice under clause 4.3.
- 4.5 The Employer acknowledges that the Contractor, acting in accordance with the provisions of this clause 4 shall not incur any liability to the Employer.

5 Use of Design Documents

- 5.1 The copyright in the Design Documents shall remain vested in the Contractor, but the Contractor grants to the Beneficiary an irrevocable royalty-free non-exclusive licence to use and to reproduce any or all of the Design Documents for any purpose connected with the Works and/or the Property including, but without limitation, the execution and completion of the Works and the maintenance, letting, occupation, management, sale, advertisement, extension, alteration, demolition, reinstatement and repair of the Property.

- 5.2 The licence referred to in clause 5.1 shall carry the right to grant sub-licences and shall be transferable to third parties and shall subsist notwithstanding the determination (for any reason) of the Contractor's employment under the Contract, provided always that the Contractor shall not be liable for the consequences of any use of the Design Documents for any purpose other than that for which it was prepared.
- 5.3 Insofar as the Contractor is the author of the Design Documents and of the Works, the Contractor waives any moral rights which it might otherwise be deemed to possess in respect of them. The Contractor shall not exercise his moral rights against the Beneficiary and the Contractor agrees that the Beneficiary is entitled to make any reasonable changes or amendments to the design prepared by or on behalf of the Contractor.
- 5.4 The Contractor shall procure for the Beneficiary a waiver corresponding to that in clause 5.3 from any sub-contractor or consultant employed by the Contractor who is an author of any part of the Design Documents and of the Works in respect of them.
- 5.5 The Contractor shall indemnify the Beneficiary against any liability which the Beneficiary may incur by reason of the Contractor's infringing or being held to have infringed any copyright or other intellectual property rights of any person.
- 5.6 The Contractor shall within 28 days of the Beneficiary's request provide a complete set of copies of the Design Documents to the Beneficiary without charge.

6 Assignment

- 6.1 The Beneficiary may assign the benefit of this Deed and/or any rights arising under it on notice to the Contractor at any time without the Contractor's consent.
- 6.2 The Contractor shall not be entitled to contend that any person to whom this Deed is assigned is precluded from recovering any loss incurred by such assignee from any breach of this Deed (whenever occurring) by reason that such a person is an assignee and not a named Beneficiary under this Deed.

7 Insurance

- 7.1 The Contractor undertakes to the Beneficiary to maintain with reputable insurers carrying on business in the United Kingdom, from the date of this Deed and for a period expiring no earlier than 12 years after the date of Practical Completion and notwithstanding the determination for any reason of the Contractor's employment under the Contract, professional indemnity insurance, with a limit of indemnity of not less than £[●],000,000 ([●] million pounds) in respect of each and every claim, provided always that such insurance continues to be available in the United Kingdom market upon reasonable terms and at commercially reasonable premium rates.
- 7.2 As and when it is reasonably required to do so by the Beneficiary, the Contractor shall produce for inspection by the Beneficiary documentary evidence that such insurance is being properly maintained.
- 7.3 The Contractor shall notify the Beneficiary immediately if such insurance ceases to be available upon reasonable terms and at commercially reasonable premium rates or if for any other reason the Contractor is unable to continue to maintain such insurance.
- 7.4 The Contractor shall not compromise, settle or waive any claim which it may have under such insurance in respect of any professional liability which it may incur under this Deed without the prior written consent of the Beneficiary provided that nothing in this clause 7.4 shall preclude the Contractor's insurers from taking over (in the name of the Contractor) the defence of any claim made by the Beneficiary under this Deed and (in that capacity) from conducting and settling it as they see fit.
- 7.5 The Contractor shall take out and maintain the insurance cover required under this clause 7 on terms which are satisfactory to the Beneficiary.

8 Other remedies

- 8.1 Nothing in this Deed shall in any way limit or affect any other rights or remedies (whether under any contract, at law, in equity or otherwise) which the Beneficiary would have against the Contractor in the absence of this Deed.
- 8.2 The liability of the Contractor under this Deed shall not be released, diminished or in any other way affected by:
- 8.2.1 the appointment by the Beneficiary of any person to survey the Property or to monitor the carrying out of the Works or to inspect any documents relating to them on behalf of the Beneficiary or the failure to appoint such a person;
 - 8.2.2 any approval or consent given or withheld or purported to be given or withheld by or on behalf of the Beneficiary; or
 - 8.2.3 any other independent inquiry into any relevant matter which the Beneficiary may make or fail to make.

9 Limitation

No action or proceedings for any breach of this Deed shall be commenced against the Contractor after the expiry of 12 years following Practical Completion of the Works.

10 Notices

- 10.1 Any notice or consent required or permitted under this Deed shall be in writing and shall be sent by first class post, hand delivery or fax. There shall be no right to serve notices or consents by email.
- 10.2 Any such notice, consent or other document shall be deemed to have been duly received:
- 10.2.1 if despatched by first class post - 48 hours from the time of posting to the relevant party; or
 - 10.2.2 if despatched by hand delivery - at the time of actual delivery; or
 - 10.2.3 if despatched by fax - 24 hours after the time of the despatch.
- 10.3 In proving service by post it will be sufficient (unless any relevant part of the postal service is affected by industrial action) to prove that the envelope containing the notice was duly stamped addressed and posted to the addresses given for a party in this Deed or such other addresses subsequently notified in writing as being the registered office or principal address of business of the relevant party. In proving service by fax it shall be sufficient to prove that it was properly addressed and dispatched to the numbers as notified in writing by the relevant party to other parties.
- 10.4 A party shall not attempt to prevent or delay the service on it of a notice under this Deed.

11 Governing law and disputes

The application and interpretation of this Deed shall in all respects be governed by the laws of England and any dispute or difference arising under this Deed shall be subject to the jurisdiction of the courts of England.

12 Third Party Rights

- 12.1 Unless the right of enforcement is expressly granted, it is not intended that a third party should have the right to enforce a provision of this Deed.

12.2 The parties may rescind or vary this Deed without the consent of a third party to whom an express right to enforce any of its terms has been provided.

In witness this deed has been executed and delivered on the date appearing at the beginning

Signature page to the Deed of Warranty between [●Contractor], [●Beneficiary] and [●Employer].

Executed as a deed by [●])
acting by [●] ,a director,)
in the presence of)

Witness signature

Witness name

Witness address

Witness occupation

Executed as a deed by [●])
acting by [●] ,a director,)
in the presence of)

Witness signature

Witness name

Witness address

Witness occupation

Executed as a deed by [●])
acting by [●] ,a director,)
in the presence of)

Witness signature

Witness name

Witness address

Witness occupation

[Annex D

Development Specification in agreed form]

Annex E

Agreed form of Lease

Annex F

Agreed form of Licence to Carry out Works

[Annex G

Agreed forms of Professional Appointments]

DATED

2015

Appendix 4-4

(1) CHEER TEAM CORPORATION LIMITED

(2) [TENANT]

LEASE

relating to

property and airspace at the Jericho Boat Yard,
land at the east side of the Oxford Canal,
Jericho, Oxford



**PENNINGTONS
MANCHES**

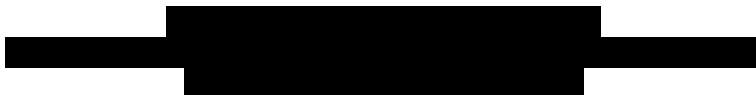


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PRESCRIBED CLAUSES

LR1. Date of lease

2015

LR2. Title number(s)

LR2.1 Landlord's title number(s)

██████████

LR2.2 Other title numbers

None.

LR3. Parties to this Lease

Landlord

Cheer Team Corporation Limited

[████████████████████]

Hong Kong Company Number 1890409

Tenant

[COMPANY NAME]

[REGISTERED OFFICE ADDRESS]

[COMPANY REGISTERED NUMBER]

[TO BE CONFIRMED]

Other parties

None.

Guarantor

None.

LR4. Property

In the case of a conflict between this clause and the remainder of this Lease then, for the purposes of registration, this clause shall prevail.

See the definition of "Property" in clause 1.1 of this Lease.

LR5. Prescribed statements etc.

LR5.1 Statements prescribed under rules 179 (dispositions in favour of a charity), 180 (dispositions by a charity) or 196 (leases under the Leasehold Reform, Housing and Urban Development Act 1993) of the Land Registration Rules 2003.

None.

LR5.2 This Lease is made under, or by reference to, provisions of:

None.

LR6. Term for which the Property is leased

The term as specified in this Lease at clause 1.1 in the definition of "Contractual Term".

LR7. Premium

None.

LR8. Prohibitions or restrictions on disposing of this Lease

This Lease contains a provision that prohibits or restricts dispositions.

LR9. Rights of acquisition etc.

LR9.1 Tenant's contractual rights to renew this Lease, to acquire the reversion or another lease of the Property, or to acquire an interest in other land

None.

LR9.2 Tenant's covenant to (or offer to) surrender this Lease

None.

LR9.3 Landlord's contractual rights to acquire this Lease

None.

LR10. Restrictive covenants given in this Lease by the Landlord in respect of land other than the Property

None.

LR11. Easements

LR11.1 Easements granted by this Lease for the benefit of the Property

The easements as specified in clause 3 of this Lease.

LR11.2 Easements granted or reserved by this Lease over the Property for the benefit of other property

The easements as specified in clause 4 of this Lease.

LR12. Estate rentcharge burdening the Property

None.

LR13. Application for standard form of restriction

None

LR14. Declaration of trust where there is more than one person comprising the Tenant

[OMIT ALL INAPPLICABLE STATEMENTS]

[The Tenant is more than one person. They are to hold the Property on trust for themselves as joint tenants.]

[The Tenant is more than one person. They are to hold the Property on trust for themselves as tenants in common in equal shares.]

[The Tenant is more than one person. They are to hold the Property on trust [COMPLETE AS NECESSARY]]

THIS LEASE dated

2015 is made between the following parties:

- (1) CHEER TEAM CORPORATION LIMITED incorporated and registered in Hong Kong with company number 1890409 whose registered office is at [REGISTERED OFFICE ADDRESS] (**Landlord**); and
- (2) [FULL COMPANY NAME] incorporated and registered in England and Wales with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] (**Tenant**); and

Now it is agreed as follows:

1. Interpretation

The following definitions and rules of interpretation apply in this Lease.

1.1 Definitions:

Act of Insolvency

- (a) the taking of any step in connection with any voluntary arrangement or any other compromise or arrangement for the benefit of any creditors of the Tenant or any guarantor;
- (b) the making of an application for an administration order or the making of an administration order in relation to the Tenant or any guarantor;
- (c) the giving of any notice of intention to appoint an administrator, or the filing at court of the prescribed documents in connection with the appointment of an administrator, or the appointment of an administrator, in any case in relation to the Tenant or any guarantor;
- (d) the appointment of a receiver or manager or an administrative receiver in relation to any property or income of the Tenant or any guarantor;
- (e) the commencement of a voluntary winding-up in respect of the Tenant or any guarantor, except a winding-up for the purpose of amalgamation or reconstruction

of a solvent company in respect of which a statutory declaration of solvency has been filed with the Registrar of Companies;

- (f) the making of a petition for a winding-up order or a winding-up order in respect of the Tenant or any guarantor;
- (g) the striking-off of the Tenant or any guarantor from the Register of Companies or the making of an application for the Tenant or any guarantor to be struck-off;
- (h) the Tenant or any guarantor otherwise ceasing to exist (but excluding where the Tenant or any guarantor dies); or
- (i) the presentation of a petition for a bankruptcy order or the making of a bankruptcy order against the Tenant or any guarantor.

The paragraphs above shall apply in relation to a partnership or limited partnership (as defined in the Partnership Act 1890 and the Limited Partnerships Act 1907 respectively) subject to the modifications referred to in the Insolvent Partnerships Order 1994 (*SI 1994/2421*) (as amended), and a limited liability partnership (as defined in the Limited Liability Partnerships Act 2000) subject to the modifications referred to in the Limited Liability Partnerships Regulations 2001 (*SI 2001/1090*) (as amended);

Act of Insolvency includes any analogous proceedings or events that may be taken pursuant to the legislation of another jurisdiction in relation to a tenant or guarantor incorporated or domiciled in such relevant jurisdiction;

Annual Rent	rent at a rate of one peppercorn per annum (if so demanded by the Landlord);
Building	The Jericho Boat Yard and buildings shown [edged blue on Plan 2] which shall include the Underlying Property, the Property and the Community Centre has been constructed;
CDM Regulations	the Construction (Design and Management) Regulations 2015 (<i>SI 2015/51</i>);
Common Parts	the Building other than the Property and the Lettable Units;
Community Centre	the Community Centre to be built on the Property by the Tenant pursuant to the Licence to Carry out Works;

Contractual Term	a term of 999 years beginning on, and including the date of this Lease;
Default Interest Rate	4% per annum above the Interest Rate;
Insurance Rent	<p>the aggregate in each year of:</p> <p>(a) a fair proportion of the gross cost of the premium before any discount or commission for:</p> <p>(i) the insurance of the Building, [other than any plate glass,] for its full reinstatement cost (taking inflation of building costs into account) against loss or damage by or in consequence of the Insured Risks, including costs of demolition, site clearance, site protection and shoring-up, professionals' and statutory fees and incidental expenses, the cost of any work which may be required under any law and VAT in respect of all those costs, fees and expenses; and</p> <p>(ii) public liability insurance in relation to the Common Parts;</p> <p>(b) the gross cost of the premium before any discount or commission for insurance for loss of Annual Rent from the Property for three years; and</p> <p>(c) any insurance premium tax payable on the above.</p>
Insured Risks	means fire, explosion, [terrorism] lightning, earthquake, storm, flood, bursting and overflowing of water tanks, apparatus or pipes, impact by aircraft and articles dropped from them, impact by vehicles, riot, civil commotion and any other risks against which the Landlord decides to insure against from time to time and Insured Risk means any one of the Insured Risks;
Interest Rate	the base rate from time to time of Barclays Bank Plc, or if that base rate stops being used or published then a comparable commercial rate reasonably determined by the Landlord;
Landlord's Neighbouring Property	each and every part of the adjoining and neighbouring property in which the Landlord has an interest known as The Jericho Boat Yard registered at the Land Registry with title number ON268665 shown edged green on the attached

	Plan 1;
Lettable Unit	part of the Building other than the Property, that is capable of being let and occupied;
Licence to Carry out Works	the Licence to Carry out Works of even date entered into between (1) the Landlord and (2) the Tenant which permits the Tenant to construct the Tenant's Works.
LTA 1954	Landlord and Tenant Act 1954;
Permitted Use	a community centre with ancillary services within Use Class [D1] of the Town and Country Planning (Use Classes) Order 1987 as at the date this Lease is granted;
Plan 1	the plan attached to this Lease marked "Plan 1";
Plan 2	the plan attached to this Lease marked "Plan 2";
Property	<p>the part of the first and second floors of the Building (the floor plan of which is shown [edged red on Plan 1]) bounded by and including:</p> <ul style="list-style-type: none"> (a) the Slab; (b) 10 meters of airspace above the Slab; <ul style="list-style-type: none"> and once constructed pursuant to the Licence to Carry out Works (c) the Community Centre including the roof, the roof space and all external, structural or load bearing walls, columns, beams and supports, including: <ul style="list-style-type: none"> (i) the paint and other decorative finishes of the interior and wooden cladding and other finishes and treatments of the exterior walls and columns; and (ii) the plasterwork and finishes of the interior structured load bearing walls and columns that adjoin another Lettable Unit or the Common Parts. (d) the doors and windows and their fittings and frames within the interior, and exterior of the Property (e) one half of the thickness of the interior walls and columns that adjoin another Lettable Unit or the Common Parts; (f) the doors and windows within the interior

walls and columns that adjoin the Common Parts and their frames and fittings;

Rent Commencement Date	the date hereof;
Rent Payment Dates	25 March, 24 June, 29 September and 25 December;
Reservations	all of the rights excepted, reserved and granted to the Landlord by this Lease;
Service Charge	a fair proportion of the Service Costs;
Service Charge Year	is the annual accounting period relating to the Services and the Service Costs beginning on [DATE] in [YEAR] and each subsequent year during the term;
Service Costs	the costs listed in clause 7.2;
Service Media	all media for the supply or removal of heat electricity, gas, water, sewage, [air-conditioning,] energy, telecommunications, data and all other services and utilities and all structures, machinery and equipment ancillary to those media;
Services	the services listed in clause 7.1;
Tenant's Works	the works to be undertaken by the Tenant in respect of the construction of the Community Centre pursuant to the Licence to Carry out Works
The Slab	means the slab forming part of the Property being immediately over the Underlying Property or any part thereof
Third Party Rights	all rights, covenants and restrictions affecting the Building including the matters referred to at the date of this Lease in the property register and entry of the charges register of title number ON268665;
Underlying Property	the land and buildings belonging the Landlord (other than the Property) over which the Property is located
VAT	value added tax chargeable under the Valued Added Tax Act 1994 and any similar replacement tax and any similar additional tax;
1.2	A reference to this lease, except a reference to the date of this Lease or to the grant of this Lease, is a reference to this deed and any deed, licence, consent, approval or other instrument supplemental to it.

- 1.3 A reference to the Landlord includes a reference to the person entitled to the immediate reversion to this Lease. A reference to the Tenant includes a reference to its successors in title and assigns.
- 1.4 In relation to any payment, a reference to a fair proportion is to a fair proportion of the total amount payable, determined conclusively (except as to questions of law) by the Landlord.
- 1.5 The expressions landlord covenant and tenant covenant each has the meaning given to it by the Landlord and Tenant (Covenants) Act 1995.
- 1.6 Unless the context otherwise requires, references to the Building, the Common Parts, a Lettable Unit and the Property are to the whole and any part of them or it.
- 1.7 The expression neighbouring property does not include the Building.
- 1.8 A reference to the term is to the Contractual Term and statutory continuation of this Lease.
- 1.9 A reference to the end of the term is to the end of the term however it ends.
- 1.10 References to the consent of the Landlord are to the consent of the Landlord given in accordance with clause 40.5 and references to the approval of the Landlord are to the approval of the Landlord given in accordance with clause 40.6.
- 1.11 A working day is any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in England.
- 1.12 A reference to laws in general is a reference to all local, national and directly applicable supra-national laws as amended, extended or re-enacted from time to time and shall include all subordinate laws made from time to time under them and all orders, notices, codes of practice and guidance made under them.
- 1.13 Unless otherwise specified, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time and shall include all subordinate legislation made from time to time under that statute or statutory provision and all orders, notices, codes of practice and guidance made under it.
- 1.14 Any obligation on the Tenant not to do something includes an obligation not to allow that thing to be done and an obligation to use best endeavours to prevent that thing being done by another person.

- 1.15 Unless the context otherwise requires, any words following the terms including, include, **in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.16 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.17 A reference to writing or written includes fax but not email.
- 1.18 Unless the context otherwise requires, references to clauses and Schedules are to the clauses and Schedules of this Lease and references to paragraphs are to paragraphs of the relevant Schedule.
- 1.19 Clause, Schedule and paragraph headings shall not affect the interpretation of this Lease.
- 1.20 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.21 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

2. Grant

- 2.1 The Landlord lets with full title guarantee the Property to the Tenant for the Contractual Term.
- 2.2 The grant is made together with the ancillary rights set out in clause 3, excepting and reserving to the Landlord the rights set out in clause 4, and subject to the Third Party Rights.
- 2.3 The grant is made with the Tenant paying the following as rent to the Landlord:
- 2.3.1 the Annual Rent and all VAT in respect of it;
 - 2.3.2 the Service Charge and all VAT in respect of it;
 - 2.3.3 the Insurance Rent;
 - 2.3.4 all interest payable under this Lease; and
 - 2.3.5 all other sums due under this Lease.

3. Ancillary Rights

- 3.1 In so far as the Landlord is able to grant them the Landlord grants the Tenant the following rights (the Rights):
- 3.1.1 the right to support and protection from the Common Parts to the extent that the Common Parts provide support and protection to the Property at the date of this Lease;
 - 3.1.2 the right to use external areas of the Common Parts shown [hatched green on Plan 2] for the purposes of [vehicular] and pedestrian access to and egress from the interior of the Building and to and from the parts of the Common Parts;
 - 3.1.3 the right to use accesways stairways and landings of the Common Parts for the purposes of access to and egress from the Property;
 - 3.1.4 the right to use and to connect into any Service Media at the Building that belong to the Landlord and serve (but do not form part of) the Property which are in existence at the date of this Lease or are installed or constructed during the period of 80 years from commencement of the Contractual Term;
 - 3.1.5 the right to attach any item to the Common Parts adjoining the Property so far as is reasonably necessary to carry out any works to the Property required or permitted by this Lease;
 - 3.1.6 the right to enter the Common Parts or any other Lettable Unit including the Underlying Property so far as is absolutely necessary to carry out any works to the Property required or permitted by this Lease;
- 3.2 The Rights are granted in common with the Landlord and any other person authorised by the Landlord or otherwise entitled to exercise such or similar right.
- 3.3 The Rights are granted subject to the Third Party Rights insofar as the Third Party Rights affect the Common Parts and the Tenant shall not do anything that may interfere with any Third Party Right.
- 3.4 The Tenant shall exercise the Rights (other than the Right mentioned in clause 3.1.1) only in connection with its use of the Property for the Permitted Use and in accordance with any regulations made by the Landlord as mentioned in clause 31.1.
- 3.5 The Tenant shall comply with all laws relating to its use of the Common Parts pursuant to the Rights.

- 3.6 In relation to the Rights mentioned in clause 3.1.3, the Landlord may, at its discretion, change the route of any means of access to or egress over the Common Parts and the Landlord's Neighbouring Property from the Property or the interior of the Building and may change the area within the Common Parts and the Landlord's Neighbouring Property over which any of that Right is exercised.
- 3.7 In relation to the Rights mentioned in clause 3.1.4, the Landlord may, at its discretion, re-route or replace over the Common Parts or the Landlord's Neighbouring Property any such Service Media and that Right shall then apply in relation to the Service Media as re-routed or replaced.
- 3.8 In relation to the Right mentioned in clause 3.1.5, where the Tenant requires the consent of the Landlord to carry out the works to the Property, the Tenant may only exercise that Right when that consent has been granted and in accordance with the terms of that consent.
- 3.9 In exercising the Right mentioned in clause 3.1.6, the Tenant shall:
- 3.9.1 except in case of emergency, give reasonable notice to the Landlord and any occupiers of the relevant Lettable Unit(s) of its intention to exercise that Right;
 - 3.9.2 where reasonably required by the Landlord or the occupier of the relevant Lettable Unit(s), exercise that Right only if accompanied by a representative of the Landlord and/or the tenant and/or the occupier of the relevant Lettable Unit(s);
 - 3.9.3 cause as little damage as possible to the Common Parts and the other Lettable Units and to any property belonging to or used by the Landlord or the tenants or occupiers of the other Lettable Units;
 - 3.9.4 cause as little inconvenience as possible to the Landlord and the tenants and occupiers of the other Lettable Units as is reasonably practicable; and
 - 3.9.5 promptly make good (to the satisfaction of the Landlord) any damage caused to the Common Parts or any Lettable Unit (or to any property belonging to or used by the Landlord) by reason of the Tenant exercising that Right.
- 3.10 Except as mentioned in this clause 3, neither the grant of this Lease nor anything in it confers any right over the Common Parts or any Lettable Unit or any neighbouring property nor is to be taken to show that the Tenant may have any right over the

Common Parts or any Lettable Unit or any neighbouring property, and section 62 of the Law of Property Act 1925 does not apply to this Lease.

4. Rights Excepted And Reserved

4.1 The following rights are excepted and reserved from this Lease to the Landlord for the benefit of the Building and the Landlord's Neighbouring Property and to the extent possible for the benefit of any neighbouring or adjoining property in which the Landlord acquires an interest during the term:

4.1.1 rights of light, air, support and protection to the extent those rights are capable of being enjoyed at any time during the term;

4.1.2 the right to use and to connect into Service Media at, but not forming part of, the Property which are in existence at the date of this Lease or which are installed or constructed during the term; the right to install and construct Service Media at the Property to serve any part of the Building (whether or not such Service Media also serve the Property); and the right to re-route any Service Media mentioned in this clause;

4.1.3 at any time during the term, the full and free right to develop the Landlord's Neighbouring Property and any neighbouring or adjoining property in which the Landlord acquires an interest during the term as the Landlord may think fit;

4.1.4 the right to erect scaffolding and to place ladders at the Property or the Building and attach it to any part of the Property or the Building in connection with any of the Reservations;

4.1.5 the right to attach any structure, fixture or fitting to the boundary of the Property in connection with any of the Reservations;

4.1.6 the right to re-route any means of access to or egress from the Property or the Building and to change the areas over which the Rights mentioned in clause 3.1 are exercised and the right to re-route and replace any Service Media over which the Rights mentioned in clause 3.1.4 are exercised;

4.1.7 and

4.1.8 [ANY OTHER SPECIFIC RIGHTS THAT NEED TO BE RESERVED]

notwithstanding that the exercise of any of the Reservations or the works carried out pursuant to them result in a reduction in the flow of light or air to the Property or the Common Parts or loss of amenity for the Property or the Common Parts.

- 4.2 The Landlord reserves the right to enter the Property:
- 4.2.1 to repair, maintain, install, construct, re-route or replace any Service Media or structure relating to any of the Reservations;
 - 4.2.2 to carry out any works to any other Lettable Unit; and
 - 4.2.3 for any other purpose mentioned in or connected with:
 - (a) this Lease;
 - (b) the Reservations; and
 - (c) the Landlord's interest in the Property, the Building or the Landlord's Neighbouring Property.
- 4.3 The Reservations may be exercised by the Landlord and by anyone else who is or becomes entitled to exercise them, and by anyone authorised by the Landlord.
- 4.4 The Tenant shall allow all those entitled to exercise any right to enter the Property, to do so with their workers, contractors, agents and professional advisors, and to enter the Property at any reasonable time (whether or not during usual business hours) and, except in the case of an emergency, after having given reasonable notice (which need not be in writing) to the Tenant.
- 4.5 No party exercising any of the Reservations, nor its workers, contractors, agents and professional advisors, shall be liable to the Tenant or to any undertenant or other occupier of or person at the Property for any loss, damage, injury, nuisance or inconvenience arising by reason of its exercising any of the Reservations except for:
- 4.5.1 physical damage to the Property; or
 - 4.5.2 any loss, damage, injury, nuisance or inconvenience in relation to which the law prevents the Landlord from excluding liability.

5. Third Party Rights

- 5.1 The Tenant shall comply with all obligations on the Landlord relating to the Third Party Rights insofar as those obligations relate to the Property and shall not do

anything (even if otherwise permitted by this Lease) that may interfere with any Third Party Right.

5.2 The Tenant shall allow the Landlord and any other person authorised by the terms of the Third Party Right to enter the Property in accordance with its terms.

6. The Annual Rent

6.1 If so demanded the Tenant shall pay the Annual Rent and any VAT in respect of it by four equal instalments in advance on or before the Rent Payment Dates.

6.2 The first instalment of the Annual Rent and any VAT in respect of it shall be made on the date of this Lease and shall be the proportion, calculated on a daily basis, in respect of the period beginning on the date of this Lease and ending on the day before the next Rent Payment Date.

7. Services And Service Charge

7.1 The Services are:

7.1.1 cleaning, maintaining and repairing the Common Parts including all Service Media forming part of the Common Parts;

7.1.2 cleaning the outside of the windows of the Common Parts;

7.1.3 lighting the Common Parts and cleaning, maintaining, repairing and replacing lighting machinery and equipment on the Common Parts;

7.1.4 cleaning, maintaining, repairing and replacing refuse bins on the Common Parts;

7.1.5 cleaning, maintaining, repairing and replacing signage for the Common Parts;

7.1.6 cleaning, maintaining, repairing, operating and replacing security machinery and equipment (including closed circuit television) on the Common Parts;

7.1.7 cleaning, maintaining, repairing, operating and replacing fire prevention, detection and fighting machinery and equipment and fire alarms on the Common Parts;

7.1.8 cleaning, maintaining, repairing and replacing a signboard showing the names and logos of the tenants and other occupiers;

- 7.1.9 maintaining the landscaped and grassed areas of the Common Parts;
 - 7.1.10 decorating the internal areas of the Common Parts;
 - 7.1.11 cleaning, maintaining, repairing and replacing the floor coverings on the internal areas of the Common Parts;
 - 7.1.12 cleaning, maintaining, repairing and replacing the furniture and fittings on the Common Parts;
 - 7.1.13 providing security cleaning and maintenance staff for the Common Parts;
 - 7.1.14 **[ANY OTHER SPECIFIC SERVICES REQUIRED];** and
 - 7.1.15 any other service or amenity that the Landlord may in its reasonable discretion acting in accordance with the principles of good estate management provide for the benefit of the tenants and occupiers of the Building.
- 7.2 The Service Costs are the total of:
- 7.2.1 the whole of the costs of:
 - (a) providing the Services;
 - (b) the supply and removal of electricity, gas, water, sewage and other utilities to and from the Common Parts;
 - (c) complying with the recommendations and requirements of the insurers of the Building (insofar as those recommendations and requirements relate to the Common Parts);
 - (d) complying with all laws relating to the Common Parts, their use and any works carried out at them, and relating to the use of all Service Media, machinery and equipment at or serving the Common Parts and to any materials kept at or disposed of from the Common Parts;
 - (e) complying with the Third Party Rights insofar as they relate to the Common Parts; and
 - (f) taking any steps (including proceedings) that the Landlord considers necessary to prevent or remove any encroachment over the Common Parts or to prevent the acquisition of any right over the Common Parts (or the Building as a whole) or to remove any obstruction to the flow of light or air to the Common Parts (or the Building as a whole);

- 7.2.2 the costs, fees and disbursements (on a full indemnity basis) of:
- (a) managing agents employed by the Landlord for the carrying out and provision of the Services or, where managing agents are not employed, a management fee for the same; and
 - (b) accountants employed by the Landlord to prepare and audit the service charge accounts;
- 7.2.3 the costs of the salaries and employer costs (including pension, welfare and insurance contributions) and uniforms of security staff for the Building and of all equipment and supplies needed for the proper performance of their duties;
- 7.2.4 all rates, taxes, impositions and outgoings payable in respect of the Common Parts, their use and any works carried out on them (other than any taxes payable by the Landlord in connection with any dealing with or disposition of its reversionary interest in the Building); and
- 7.2.5 any VAT payable by the Landlord in respect of any of the items mentioned above except to the extent that the Landlord obtains credit for such VAT under the Value Added Tax Act 1994.
- 7.3 Subject to the Tenant paying the Service Charge, the Landlord shall use its reasonable endeavours:
- 7.3.1 to repair the structural parts of the Common Parts;
 - 7.3.2 to provide heating to the internal areas of the Common Parts during such periods of the year as the Landlord considers appropriate;
 - 7.3.3 to keep the internal areas of the Common Parts clean, and to clean the outside of the windows of the Common Parts as often as the Landlord considers appropriate; and
 - 7.3.4 to keep the internal and external areas of the Common Parts reasonably well lit
- 7.4 The Landlord may, but shall not be obliged to, provide any of the other Services. The Landlord shall not be obliged to carry out any works where the need for those works has arisen by reason of any damage or destruction by a risk against which the Landlord is not obliged to insure.
- 7.5 The Landlord shall not be liable for:

- 7.5.1 any interruption in, or disruption to, the provision of any of the Services for any reason that is outside the reasonable control of the Landlord; or
- 7.5.2 any injury, loss or damage suffered by the Tenant as a result of any absence or insufficiency of any of the Services or of any breakdown or defect in any Service Media, except where due to the negligence of the Landlord.
- 7.6 Before or as soon as possible after the start of each Service Charge Year, the Landlord shall prepare and send the Tenant an estimate of the Service Costs for that Service Charge Year and a statement of the estimated Service Charge for that Service Charge Year.
- 7.7 The Tenant shall pay the estimated Service Charge for each Service Charge Year in four equal instalments on each of the Rent Payment Dates.
- 7.8 In relation to the Service Charge Year current at the date of this Lease, the Tenant's obligations to pay the estimated Service Charge and the actual Service Charge shall be limited to an apportioned part of those amounts, such apportioned part to be calculated on a daily basis for the period from and including the date of this Lease to the end of the Service Charge Year. The estimated Service Charge for which the Tenant is liable shall be paid in equal instalments on the date of this Lease and the remaining Rent Payment Days during the period from and including the date of this Lease until the end of the Service Charge Year.
- 7.9 As soon as reasonably practicable after the end of each Service Charge Year, the Landlord shall prepare and send to the Tenant a certificate showing the Service Costs and the Service Charge for that Service Charge Year. The certificate shall be in accordance with the service charge accounts prepared and audited by the Landlord's managing agents.
- 7.10 If any cost is omitted from the calculation of the Service Charge in any Service Charge Year, the Landlord shall be entitled to include it in the estimate and certificate of the Service Charge in any following Service Charge Year. Otherwise, and except in the case of manifest error, the Service Charge certificate shall be conclusive as to all matters of fact to which it refers.
- 7.11 Without prejudice to clause 8.4.6, where the Landlord provides any Service by reason of the damage to or destruction of the Common Parts by a risk against which the Landlord is obliged to insure an Insured Risk, the costs of that Service shall not be included in the Service Charge.

7.12 If, in respect of any Service Charge Year, the Landlord's estimate of the Service Charge is less than the Service Charge, the Tenant shall pay the difference on demand. If, in respect of any Service Charge Year, the Landlord's estimate of the Service Charge is more than the Service Charge, the Landlord shall credit the difference against the Tenant's next instalment of the estimated Service Charge (and where the difference exceeds the next instalment then the balance of the difference shall be credited against each succeeding instalment until it is fully credited).]

8. Insurance

8.1 Subject to clause 8.2, the Landlord shall keep the Building insured against loss or damage by the Insured Risks for the sum which the Landlord considers to be its full reinstatement cost (taking inflation of building costs into account).

8.2 The Landlord's obligation to insure is subject to:

8.2.1 any exclusions, limitations, excesses and conditions that may be imposed by the insurers; and

8.2.2 insurance being available in the London insurance market on reasonable terms acceptable to the Landlord.

8.3 The Tenant shall pay to the Landlord on demand:

8.3.1 the Insurance Rent;

8.3.2 any amount that is deducted or disallowed by the insurers pursuant to any excess provision in the insurance policy; and

8.3.3 a fair proportion of any costs that the Landlord incurs in obtaining a valuation of the Building for insurance purposes.

8.4 The Tenant shall:

8.4.1 immediately inform the Landlord if any matter occurs in relation to the Tenant or the Property that any insurer or underwriter may treat as material in deciding whether or on what terms to insure or to continue to insure the Building and shall give the Landlord notice of that matter;

8.4.2 not do or omit anything as a result of which any policy of insurance of the Building or any neighbouring property may become void or voidable or otherwise prejudiced, or the payment of any policy money may be withheld, nor (unless the Tenant has previously notified the Landlord and

has paid any increased or additional premium) anything as a result of which any increased insurance or additional premium may become payable;

- 8.4.3 comply at all times with the requirements and recommendations of the insurers relating to the Property and the use by the Tenant of the Common Parts;
 - 8.4.4 give the Landlord immediate notice of the occurrence of any damage or loss relating to the Property arising from an Insured Risk;
 - 8.4.5 not effect any insurance of the Property (except any plate glass at the Property), but if it becomes entitled to the benefit of any insurance proceeds in respect of the Property (other than in respect of plate glass) pay those proceeds or cause them to be paid to the Landlord; and
 - 8.4.6 pay the Landlord an amount equal to any insurance money that the insurers of the Building refuse to pay (in relation to the Building) by reason of any act or omission of the Tenant or any undertenant, their workers, contractors or agents or any person at the Property or the Common Parts with the actual or implied authority of any of them.
- 8.5 The Landlord shall, subject to obtaining all necessary planning and other consents, use all insurance money received (other than for loss of rent) in connection with any damage to the Building to repair the damage for which the money has been received or (as the case may be) in rebuilding the Building. The Landlord shall not be obliged to:
- 8.5.1 provide accommodation or facilities identical in layout or design so long as accommodation reasonably equivalent to that previously at the Property and its access, services and amenities is provided; or
 - 8.5.2 repair or rebuild if the Tenant has failed to pay any of the Insurance Rent; or
 - 8.5.3 repair or rebuild the Building after a notice has been served pursuant to clause 8.7 or clause 8.8.
- 8.6 If the Property is damaged or destroyed by an Insured Risk so as to be unfit for occupation and use or if the Common Parts are damaged or destroyed by an Insured Risk so as to make the Property inaccessible or unusable then, unless the policy of insurance in relation to the Property or the Common Parts has been vitiated in whole or in part in consequence of any act or omission of the Tenant, or their respective

workers, contractors or agents or any other person on the Property or the Common Parts with the actual or implied authority of any of them, payment of the Annual Rent, or a fair proportion of it according to the nature and extent of the damage, shall be suspended until the Property has been reinstated and made fit for occupation and use or the Common Parts have been reinstated so as to make the Property accessible or useable (as the case may be), or until the end of three years from the date of damage or destruction, if sooner.

- 8.7 If, following damage to or destruction of the Building, the Landlord considers that it is impossible or impractical to reinstate the Building, the Landlord may terminate this Lease by giving notice to the Tenant. On giving notice this Lease shall determine but this shall be without prejudice to any right or remedy of the Landlord in respect of any breach of the tenant covenants of this Lease. Any proceeds of the insurance shall belong to the Landlord.
- 8.8 Provided that the Tenant has complied with its obligations in this clause, the Tenant may terminate this Lease by giving notice to the Landlord if, following damage or destruction of the Property or the Common Parts by an Insured Risk, the Property has not been reinstated so as to be fit for occupation and use or the Common Parts have not been reinstated so as to make the Property accessible or useable within three years after the date of damage or destruction. On giving this notice this Lease shall determine but this shall be without prejudice to any right or remedy of the Landlord in respect of any breach of the tenant covenants of this Lease. Any proceeds of the insurance shall belong to the Landlord.

9. Rates And Taxes

- 9.1 The Tenant shall pay all present and future rates, taxes and other impositions and outgoings payable in respect of the Property, its use and any works carried out there, except:
- 9.1.1 any taxes payable by the Landlord in connection with any dealing with or disposition of the reversion to this Lease; or
- 9.1.2 any taxes (other than VAT and insurance premium tax) payable by the Landlord by reason of the receipt of any of the rents due under this Lease.
- 9.2 If any such rates, taxes or other impositions and outgoings are payable in respect of the Property together with other land (including any other part of the Building) the Tenant shall pay a fair proportion of the total.

- 9.3 The Tenant shall not make any proposal to alter the rateable value of the Property or that value as it appears on any draft rating list, without the approval of the Landlord.
- 9.4 If, after the end of the term, the Landlord loses rating relief (or any similar relief or exemption) because it has been allowed to the Tenant, then the Tenant shall pay the Landlord an amount equal to the relief or exemption that the Landlord has lost.

10. Utilities

- 10.1 The Tenant shall pay all costs in connection with the supply and removal of electricity, gas, water, sewage, telecommunications and data and other services and utilities to or from the Property.
- 10.2 The Tenant shall comply with all laws and with any recommendations of the relevant suppliers relating to the use of those services and utilities the supply and removal of electricity, gas, water, sewage, telecommunications, data and other services and utilities to or from the Property.

11. Common Items

- 11.1 The Tenant shall pay the Landlord on demand a fair proportion of all costs payable by the Landlord for the maintenance, repair, lighting, cleaning and renewal of all Service Media, structures and other items not on the Building but used or capable of being used by the Building in common with other land.
- 11.2 The Tenant shall comply with all reasonable regulations the Landlord may make from time to time in connection with the use of any of those Service Media, structures or other items.

12. VAT

- 12.1 All sums payable by the Tenant are exclusive of any VAT that may be chargeable. The Tenant shall pay VAT in respect of all taxable supplies made to it in connection with this Lease on the due date for making any payment or, if earlier, the date on which that supply is made for VAT purposes.
- 12.2 Every obligation on the Tenant, under or in connection with this Lease, to pay the Landlord or any other person any sum by way of a refund or indemnity, shall include an obligation to pay an amount equal to any VAT incurred on that sum by the Landlord or other person, except to the extent that the Landlord or other person obtains credit for such VAT under the Value Added Tax Act 1994.

13. Default Interest And Interest

- 13.1 If any Annual Rent or any other money payable under this Lease has not been paid by the date it is due, whether it has been formally demanded or not, the Tenant shall pay the Landlord interest on that amount at the Default Interest Rate (both before and after any judgment). Such interest shall accrue on a daily basis for the period from and including the due date to and including the date of payment.
- 13.2 If the Landlord does not demand or accept any Annual Rent or other money due or tendered under this Lease because the Landlord reasonably believes that the Tenant is in breach of any of the tenant covenants of this Lease, then the Tenant shall, when that amount is accepted by the Landlord, also pay interest at the Interest Rate on that amount for the period from and including the date the amount (or each part of it) became due until the date it is accepted by the Landlord.

14. Costs

- 14.1 The Tenant shall pay the costs and expenses of the Landlord including any solicitors' or other professionals' costs and expenses (incurred both during and after the end of the term) in connection with or in contemplation of any of the following:
- 14.1.1 the enforcement of the tenant covenants of this Lease;
 - 14.1.2 serving any notice in connection with this Lease under section 146 or 147 of the Law of Property Act 1925 or taking any proceedings under either of those sections, notwithstanding that forfeiture is avoided otherwise than by relief granted by the court;
 - 14.1.3 serving any notice in connection with this Lease under section 17 of the Landlord and Tenant (Covenants) Act 1995;
 - 14.1.4 the preparation and service of a schedule of dilapidations in connection with this Lease; or
 - 14.1.5 any consent or approval applied for under this Lease, whether or not it is granted,
- 14.2 Where the Tenant is obliged to pay or indemnify the Landlord against any solicitors' or other professionals' costs and expenses (whether under this or any other clause of this Lease) that obligation extends to those costs and expenses assessed on a full indemnity basis.

15. Compensation On Vacating

Any right of the Tenant or anyone deriving title under the Tenant to claim compensation from the Landlord on leaving the Property under the LTA 1954 is excluded, except to the extent that the legislation prevents that right being excluded.

16. Set-off

The Annual Rent and all other amounts due under this Lease shall be paid by the Tenant in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

17. Registration Of This Lease

Promptly following the grant of this Lease, the Tenant shall apply to register this Lease at the Land Registry. The Tenant shall ensure that any requisitions raised by the Land Registry in connection with that application are dealt with promptly and properly. Within one month after completion of the registration, the Tenant shall send the Landlord official copies of its title.

18. Assignments

The Tenant shall not assign the whole or any part of this Lease.

19. Underlettings

The Tenant shall not underlet the whole or any part of the Property.

20. Charging

20.1 The Tenant shall not charge the whole of this lease without the consent of the Landlord, such consent not to be unreasonably withheld.

20.2 The Tenant shall not charge part only of this lease

21. Prohibition Of Other Dealings

Except as expressly permitted by this Lease, the Tenant shall not assign, underlet, charge, part with or share possession or share occupation of this Lease or the Property or hold the lease on trust for any person (except pending registration of a

dealing permitted by this Lease at the Land Registry or by reason only of joint legal ownership).

22. Registration And Notification Of Dealings And Occupation

22.1 In this clause a Transaction is:

22.1.1 any dealing with this Lease as permitted by the terms of this Lease or the devolution or transmission of, or parting with possession of any interest in it; or

22.1.2 the creation of any interest out of this Lease (as permitted by the terms of this Lease) and any dealing devolution or transmission of, or parting with possession of any such interest; or

22.1.3 the making of any other arrangement for the occupation of the Property.

22.2 In respect of every Transaction that is registrable at the Land Registry, the Tenant shall promptly following completion of the Transaction apply to register it (or procure that the relevant person so applies). The Tenant shall (or shall procure that) any requisitions raised by the Land Registry in connection with an application to register a Transaction are dealt with promptly and properly. Within one month of completion of the registration, the Tenant shall send the Landlord official copies of its title.

22.3 No later than one month after a Transaction the Tenant shall:

22.3.1 give the Landlord's solicitors notice of the Transaction;

22.3.2 deliver two certified copies of any document effecting the Transaction to the Landlord's solicitors;

22.3.3 pay the Landlord's solicitors a registration fee of £50 (plus VAT); and

22.3.4 deliver to the Landlord's solicitors a copy of any Energy Performance Certificate and Recommendation Report issued as a result of the Transaction.

22.4 If the Landlord so requests, the Tenant shall promptly supply the Landlord with full details of the occupiers of the Property and the terms upon which they occupy it.

23. Closure Of The Registered Title Of This Lease

Within one month after the end of the term (and notwithstanding that the term has ended), the Tenant shall make an application to close the registered title of this

Lease and shall ensure that any requisitions raised by the Land Registry in connection with that application are dealt with promptly and properly; the Tenant shall keep the Landlord informed of the progress and completion of its application.

24. The Tenant's Works

24.1 The Tenant must

24.1.1 complete the Tenant's Works within three years from the date of the Licence to Carry out Works, time being of the essence, and

24.1.2 notify the Landlord as soon as they have been completed and send the Landlord three copies of plans showing the Property as altered by the Works

25. Repairs

25.1 The Tenant shall keep the Property clean and tidy and in good repair and condition and shall ensure that any Service Media within and exclusively serving the Property is kept in good working order.

25.2 The Tenant shall not be liable to repair the Property to the extent that any disrepair has been caused by an Insured Risk, unless and to the extent that:

25.2.1 the policy of insurance of the Property has been vitiated or any insurance proceeds withheld in consequence of any act or omission of the Tenant, any undertenant or their respective workers, contractors or agents or any person on the Property with the actual or implied authority of any of them; or

25.2.2 the insurance cover in relation to that disrepair is excluded, limited, is unavailable or has not been extended, as mentioned in clause 8.2.

25.3 Without prejudice to the generality of clause 23.1 the Tenant shall keep the Slab and other structural parts of the Property in impermeable condition so as to prevent the passage of other water or other fluids into the Underlying Property

26. Decoration

As often as is reasonably necessary and at least every three years and in the last year of the term (howsoever determined), to decorate or treat as appropriate all parts of the exterior of the Property that are usually decorated, cleaned, painted or treated

in a good and proper manner, using good quality, suitable materials that are appropriate to the Property and in the last year of the term to use materials, designs and colours approved by the Landlord provided that the Tenant will not be required to perform these obligations in the last year of the term if it has done so in the preceding 12 months.

27. Windows and landscaping

To clean the windows of the Property as often as is reasonably necessary.

28. Sewers and drains

Not to allow to pass into the Service Media serving the Property any noxious or deleterious effluent or other substance which may obstruct or damage them or any other neighbouring property.

29. Stability

Not to do or permit to suffer any act to be done upon the Property which may endanger or weaken the safety or stability or structural integrity of the Slab or the structural elements of the property and shall not overload the Property in such a way as to endanger or prejudice the safety / and or operation of the Underlying Property.

30. Alterations And Signs

30.1 Not to make any alterations or additions to the Property and not to make any opening in any boundary structure of the Property which in each case might vitiate the structural integrity of the Building and shall not carry out any alterations or make any additions which might vitiate the structural integrity of the Underlying Property in any circumstances without the consent of the Landlord, such consent not to be unreasonably withheld or delayed.

30.2 The Tenant shall not carry out or permit or suffer to be carried out any works (including without prejudice to the generality of the foregoing works of repair interfering with or adding to or altering the Slab or any part of the Property immediately adjoining or abutting the Underlying Property or which could adversely affect the safety or operation of the Underlying Property otherwise than with the prior written consent of the Landlord to the works and the specification and manner of execution of the same.

- 30.3 The Tenant shall not carry out any alterations to the exterior or the structure of the Property without the Landlord's prior consent which shall not be unreasonably withheld or delayed.
- 30.4 The Tenant shall be entitled to carry out internal non-structural alterations to the Property without the Landlord's consent.
- 30.5 Not to install, alter the route of, damage or remove any Service Media at the Property without the prior written consent of the Landlord, such consent not to be unreasonably withheld or delayed.
- 30.6 In carrying out any works on the Premises the Tenant shall observe and perform the obligations listed in this clause 28.
- 30.6.1 if as a result of any such works, settlement or other damage to the Landlord's structures or facilities on the Underlying Property occurs, during or after such works, the Tenant shall reimburse the Landlord all costs incurred in consequence of such settlement or other damage.
- 30.6.2 the Tenant shall pay the reasonable and proper costs incurred by the Landlord in the examination of drawings, calculations, statements (and for the avoidance of doubt such costs shall include reasonable and proper professional costs in addition to those of the Engineer where appropriate).
- 30.6.3 structures, facilities and services on the Underlying Property shall not be interfered with or damaged by or on behalf of the Tenant in any way unless specifically authorised by the Landlord.
- 30.6.4 the Tenant shall be responsible for all temporary fences, hoardings, lighting, signs, accessways and other conveniences necessary in the reasonable opinion of the Landlord for the protection of persons using the Underlying Property during the construction of any works as aforesaid.
- 30.7 In consenting to any alterations the Landlord shall not guarantee:
- 30.7.1 the structural stability of either the alterations to the Property as altered by them
- 30.7.2 the suitability of any materials to be used in the alterations
- 30.7.3 that the Property as altered will comply with the requirements of any statute.

31. Returning The Property To The Landlord

- 31.1 At the end of the term the Tenant shall return the Property to the Landlord in the repair and condition required by this Lease.
- 31.2 At the end of the term, the Tenant shall remove from the Property all chattels belonging to or used by it.
- 31.3 The Tenant irrevocably appoints the Landlord to be the Tenant's agent to store or dispose of any chattels or items it has fixed to the Property and which have been left by the Tenant on the Property for more than ten working days after the end of the term. The Landlord shall not be liable to the Tenant by reason of that storage or disposal. The Tenant shall indemnify the Landlord in respect of any claim made by a third party in relation to that storage or disposal.
- 31.4 If the Tenant does not comply with its obligations in this clause, then, without prejudice to any other right or remedy of the Landlord, the Tenant shall pay the Landlord an amount equal to the Annual Rent at the rate reserved immediately before the end of the term for the period that it would reasonably take to put the Property into the condition it would have been in had the Tenant performed its obligations under this clause. The amount shall be a debt due on demand from the Tenant to the Landlord.

32. Use

- 32.1 The Tenant shall not use the Property for any purpose other than the Permitted Use.
- 32.2 The Tenant shall not use the Property for any illegal purpose nor for any purpose or in a manner that would cause loss, damage, injury, nuisance or inconvenience to the Landlord, the other tenants or occupiers of the Lettable Units or any owner or occupier of neighbouring property.
- 32.3 The Tenant shall not overload any structural part of the Building nor any Service Media at or serving the Property.

33. Management Of The Building

- 33.1 The Tenant shall observe all reasonable and proper regulations made by the Landlord from time to time in accordance with the principles of good estate management and notified to the Tenant relating to the use of the Common Parts and the management of the Building.

33.2 Nothing in this Lease shall impose or be deemed to impose any restriction on the use of any other Lettable Unit or any neighbouring property.

34. Compliance With Laws

34.1 The Tenant shall comply with all laws relating to:

34.1.1 the Property and the occupation and use of the Property by the Tenant;

34.1.2 the use or operation of all Service Media and machinery and equipment at or serving the Property whether or not used or operated, and shall, where necessary, replace or convert such Service Media within or exclusively serving the Property so that it is capable of lawful use or operation;

34.1.3 any works carried out at the Property; and

34.1.4 all materials kept at or disposed from the Property.

34.2 Without prejudice to any obligation on the Tenant to obtain any consent or approval under this Lease, the Tenant shall carry out all works that are required under any law to be carried out at the Property whether by the owner or the occupier.

34.3 Within five working days after receipt of any notice or other communication affecting the Property or the Building (and whether or not served pursuant to any law) the Tenant shall:

34.3.1 send a copy of the relevant document to the Landlord; and

34.3.2 in so far as it relates to the Property, take all steps necessary to comply with the notice or other communication and take any other action in connection with it as the Landlord may require.

34.4 The Tenant shall not apply for any planning permission for the Property.

34.5 The Tenant shall comply with its obligations under the CDM Regulations, including all requirements in relation to the provision and maintenance of a health and safety file.

34.6 The Tenant shall supply all information to the Landlord that the Landlord reasonably requires from time to time to comply with the Landlord's obligations under the CDM Regulations.

34.7 As soon as the Tenant becomes aware of any defect in the Property, it shall give the Landlord notice of it. The Tenant shall indemnify the Landlord against any liability under the Defective Premises Act 1972 in relation to the Property by reason of any failure of the Tenant to comply with any of the tenant covenants in this Lease.

34.8 The Tenant shall keep the Property equipped with all fire prevention, detection and fighting machinery and equipment and fire alarms which are required under all relevant laws or required by the insurers of the Property or reasonably recommended by them or reasonably required by the Landlord and shall keep that machinery, equipment and alarms properly maintained and available for inspection.

35. Encroachments, Obstructions And Acquisition Of Rights

35.1 The Tenant shall not grant any right or licence over the Property to a third party.

35.2 If a third party makes or attempts to make any encroachment over the Property or takes any action by which a right may be acquired over the Property, the Tenant shall:

35.2.1 immediately inform the Landlord and shall give the Landlord notice of that encroachment or action; and

35.2.2 take all steps (including any proceedings) the Landlord reasonably requires to prevent or license the continuation of that encroachment or action.

35.3 The Tenant shall not obstruct the flow of light or air to the Property or any other part of the Building nor obstruct any means of access to the Property or any other part of the Building.

35.4 The Tenant shall not make any acknowledgement that the flow of light or air to the Property or any other part of the Building or that the means of access to the Property or any other part of the Building is enjoyed with the consent of any third party.

35.5 If any person takes or threatens to take any action to obstruct the flow of light or air to the Property or obstruct the means of access to the Property, the Tenant shall:

35.5.1 immediately inform the Landlord and shall give the Landlord notice of that action; and

35.5.2 take all steps (including proceedings) the Landlord reasonably requires to prevent or secure the removal of the obstruction.

36. Breach Of Repair And Maintenance Obligations

36.1 The Landlord may enter the Property to inspect its condition and state of repair and may give the Tenant a notice of any breach of any of the tenant covenants in this Lease relating to the condition or repair of the Property.

- 36.2 If the Tenant has not begun any works needed to remedy that breach within two months following that notice (or if works are required as a matter of emergency, then immediately) or if the Tenant is not carrying out the works with all due speed, then the Landlord may enter the Property and carry out the works needed.
- 36.3 The costs incurred by the Landlord in carrying out any works pursuant to this clause (and any professional fees and any VAT in respect of those costs) shall be a debt due from the Tenant to the Landlord and payable on demand.
- 36.4 Any action taken by the Landlord pursuant to this clause shall be without prejudice to the Landlord's other rights, including those under clause 37.

37. Indemnity

The Tenant shall keep the Landlord indemnified against all liabilities, expenses, costs (including but not limited to any solicitors' or other professionals' costs and expenses), claims, damages and losses (including but not limited to any diminution in the value of the Landlord's interest in the Building and loss of amenity of the Building) suffered or incurred by the Landlord arising out of or in connection with any breach of any tenant covenants in this Lease, or any act or omission of the Tenant, any undertenant or their respective workers, contractors or agents or any other person on the Property or the Common Parts with the actual or implied authority of any of them.

38. Landlord's Covenant For Quiet Enjoyment

The Landlord covenants with the Tenant, that, so long as the Tenant pays the rents reserved by and complies with its obligations in this Lease, the Tenant shall have quiet enjoyment of the Property without any interruption by the Landlord or any person claiming under the Landlord except as otherwise permitted by this Lease.

39. Re-entry And Forfeiture

- 39.1 The Landlord may re-enter the Property (or any part of the Property in the name of the whole) at any time after any of the following occurs:
- 39.1.1 at any time after a breach of the Tenant's covenant in clause 23 in this Lease
- 39.1.2 any sum due under this Lease is unpaid 21 days after becoming payable whether it has been formally demanded or not;

39.1.3 any breach of any condition of, or tenant covenant in, this Lease;

39.1.4 an Act of Insolvency.

PROVIDED ALWAYS THAT the Landlord shall not re-enter upon the Property or any part thereof or otherwise forfeit or attempt to forfeit this Lease or the term by peaceable re-entry save pursuant to an order of the Court and in any event not until after the expiration of a reasonable period of time (such period in any event not to exceed one year) from the date of service upon the Tenant and the person having the benefit of any mortgage or charge over the Property in respect of which the Landlord has received written notice and any person whose interest is noted on the Tenant's registered title to the Property and at the address stipulated in such notice (or any notice varying it) of written notice of the Landlord's intention to re-enter upon the Property or any part thereof or otherwise forfeit or attempt to forfeit this Lease or the term by peaceable re-entry specifying the particular breach complained of and requiring in so far as possible that the breach is remedied and then only if the breach so complained of has not been remedied (and the Landlord acknowledges that it will accept the action of any such mortgagee or charge as the action of the Tenant in such circumstances without asserting that such mortgagee or charge is in possession of the Property).

39.2 For the avoidance of doubt any dispute as to whether any breach has occurred and over liability for all or any part of the breach complained of may be referred to independent determination under clause 43.

39.3 If the Landlord re-enters the Property (or any part of the Property in the name of the whole) pursuant to this clause, this Lease shall immediately end, but without prejudice to any right or remedy of the Landlord in respect of any breach of covenant by the Tenant or any guarantor.

40. Joint And Several Liability

40.1 Where the Tenant comprises more than one person, those persons shall be jointly and severally liable for the obligations and liabilities of the Tenant arising under this Lease. The Landlord may take action against, or release or compromise the liability of, or grant time or other indulgence to, any one of those persons without affecting the liability of any other of them.

40.2 Where a guarantor comprises more than one person, those persons shall be jointly and severally liable for the obligations and liabilities of a guarantor arising under this Lease. The Landlord may take action against, or release or compromise the liability

of, or grant time or other indulgence to, any one of those persons without affecting the liability of any other of them.

40.3 The obligations of the Tenant and any guarantor arising by virtue of this Lease are owed to the Landlord and the obligations of the Landlord are owed to the Tenant.

40.4 The Landlord shall not be liable to the Tenant for any failure of the Landlord to perform any landlord covenant in this Lease unless and until the Tenant has given the Landlord notice of the failure and the Landlord has not remedied the failure within a reasonable time of service of that notice.

41. Entire Agreement

41.1 This Lease and any documents annexed to it constitute the whole agreement between the parties and supersede all previous discussions, correspondence, negotiations, arrangements, understandings and agreements between them relating to their subject matter.

41.2 Each party acknowledges that in entering into this Lease and any documents annexed to it it does not rely on, and shall have no remedies in respect of, any representation or warranty (whether made innocently or negligently) other than those contained in any written replies that Penningtons Manches has given to any written enquiries raised by [DETAILS OF ORIGINAL TENANT'S LEGAL ADVISERS] before the date of this Lease.

41.3 Nothing in this Lease constitutes or shall constitute a representation or warranty that the Property may lawfully be used for any purpose allowed by this Lease.

41.4 Nothing in this clause shall limit or exclude any liability for fraud.

42. Notices, Consents And Approvals

42.1 Except where this Lease specifically states that a notice need not be in writing, any notice given under or in connection with this Lease shall be:

42.1.1 in writing and for the purposes of this clause an email is not in writing; and

42.1.2 given:

(a) by hand or by pre-paid first-class post or other next working day delivery service at the party's registered office address (if the party is a company) or (in any other case) at the party's principal place of business; or

(b) by fax to the party's main fax number.

42.2 If a notice complies with the criteria in clause 40.1, whether or not this Lease requires that notice to be in writing, it shall be deemed to have been received:

42.2.1 if delivered by hand, at the time the notice is left at the proper address;

42.2.2 if sent by pre-paid first-class post or other next working day delivery service, on the second working day after posting; or

42.2.3 if sent by fax, at 9.00 am on the next working day after transmission.

42.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

42.4 Section 196 of the Law of Property Act 1925 shall otherwise apply to notices given under this Lease.

42.5 Where the consent of the Landlord is required under this Lease, a consent shall only be valid if it is given by deed, unless:

42.5.1 it is given in writing and signed by the Landlord or a person duly authorised on its behalf; and

42.5.2 it expressly states that the Landlord waives the requirement for a deed in that particular case.

If a waiver is given, it shall not affect the requirement for a deed for any other consent.

42.6 Where the approval of the Landlord is required under this Lease, an approval shall only be valid if it is in writing and signed by or on behalf of the Landlord, unless:

42.6.1 the approval is being given in a case of emergency; or

42.6.2 this Lease expressly states that the approval need not be in writing.

42.7 If the Landlord gives a consent or approval under this Lease, the giving of that consent or approval shall not imply that any consent or approval required from a third party has been obtained, nor shall it obviate the need to obtain any consent or approval from a third party.

43. Disputes as to Tenant's Works

- 43.1 If there shall be any dispute between the Landlord and the Tenant arising out of any of the provisions of this lease relating to the Tenant's Works it may be required by either party to be determined by an independent person in accordance with this clause 43.
- 43.2 Where the parties cannot reach agreement they shall refer the matter to an independent person for determination such independent person shall be a chartered surveyor agreed upon by the Landlord and the Tenant but in default of agreement appointed at the request of either the Landlord or the Tenant by or on behalf of the President for the time being of the Royal Institute of Chartered Surveyors and such independent person shall act as an expert and not an arbitrator.
- 43.3 Where an independent person is in accordance with this clause 43 required to act as an expert:
- 43.3.1 He will give to the Landlord and the Tenant written notice of his appointment and in such notice he will invite the Landlord and the Tenant to submit to him within 10 working days their representations on the dispute;
 - 43.3.2 He will consider the representations of the landlord and the Tenant but his decision will not be limited or fettered by them;
 - 43.3.3 He will rely on his own judgment and opinion;
 - 43.3.4 He will not be required to state any reasons for his determination;
 - 43.3.5 He will give the Landlord and the Tenant written notice of his determination within 20 working days after his appointment or such longer or shorter period as the Landlord and the Tenant may agree in writing; and
 - 43.3.6 His determination will be final and binding on the Landlord and the Tenant.
- 43.4 If an independent person as referred to in this clause 43 is appointed and:
- 43.4.1 Does not give notice of his determination within the time and in the manner referred to above; or
 - 43.4.2 He relinquishes his appointment or dies; or
 - 43.4.3 For any reason it becomes apparent that he will be unable to complete his duties under this clause 43

either the Landlord or the Tenant may apply for the appointment of a new independent person (and the provisions of this clause 43 will operate in relation to that appointment) and this procedure may be repeated as many times as may be necessary.

43.5 The fees and disbursements of any independent person shall be appointed pursuant to this clause 43 shall be borne by the Landlord and the Tenant in such shares and such manner as the independent person shall determine and in default of determination shall be borne by the Landlord and the Tenant in equal shares.

44. Governing Law

This Lease and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

45. Jurisdiction

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

46. Contracts (Rights Of Third Parties) Act 1999

A person who is not a party to this Lease shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Lease. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

[Insert Cheer Team Corporation
Limited's signature requirements]

[Insert Tenant's signature
requirements]

DATED

2015

Appendix 4-5

(1) CHEER TEAM CORPORATION LIMITED

(2) [TENANT]

LICENCE FOR ALTERATIONS
relating to
construction of the Community Centre, Jericho
Boat Yard, Land at Ease Side of the Oxford Canal,
Jericho



**PENNINGTONS
MANCHES**

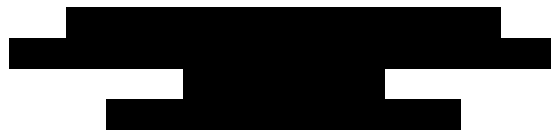


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THIS LICENCE dated

2015 is made between the following parties :

- (1) **CHEER TEAM CORPORATION LIMITED** incorporated and registered in Hong Kong with company number 1890409 whose registered office is at [REGISTERED OFFICE ADDRESS] (**Landlord**); and
- (2) [FULL COMPANY NAME] incorporated and registered in England and Wales with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] (**Tenant**); and

Background:

- A. This Licence is supplemental and collateral to the Lease.
- B. The Landlord is entitled to the immediate reversion to the Lease.
- C. The residue of the Term is vested in the Tenant.
- D. The Tenant intends to carry out the Works and, under the terms of the Lease, requires the consent of the Landlord to do so.

Now it is agreed as follows:

1. Interpretation

The following definitions and rules of interpretation apply in this Licence.

1.1 Definitions:

Building	the land and buildings known as the Jericho Boat Yard
CDM Regulations	the Construction (Design and Management) Regulations 2015 (<i>SI 2015/51</i>);
Collateral Warranties	deeds of collateral warranty from the parties identified in the relevant annex to this Licence together with any replacement party that may from time to time be appointed by the Tenant, such deeds to be in the agreed forms annexed to this licence with such amendments as may be approved by the Landlord (such approval not to be unreasonably withheld or delayed);
Energy Performance Certificate	a certificate as defined in regulation 2(1) of the Energy Performance of Buildings (England and Wales) Regulations 2012 (<i>SI 2012/3118</i>);
Lease	a lease of property and airspace to be known as The Community Centre, First Floor, Jericho Boat Yard, Jericho, Oxford of even date and made between (1) the Landlord and (2) the Tenant and all documents supplemental or collateral to that

- lease;
- Property** the property and airspace granted to the Tenant pursuant to and more particularly defined in the Lease
- Recommendation Report** a report as defined in regulation 4 of the Energy Performance of Buildings (England and Wales) Regulations 2012 (*SI 2012/3118*);
- Long Stop Date** 3 years from the date hereof
- Term** the term of years granted by the Lease and any agreed or statutory continuation of the Lease;
- Works** the works to be carried out at the Property which are referred to in the Schedule together with making good any damage to the Property caused by carrying out such works.
- 1.2 References to the Landlord include a reference to the person entitled for the time being to the immediate reversion to the Lease. References to the Tenant include a reference to its successors in title and assigns.
- 1.3 References to the end of the Term are to the end of the Term however it ends.
- 1.4 The expression tenant covenants has the meaning given to it by the Landlord and Tenant (Covenants) Act 1995.
- 1.5 Clause, Schedule and paragraph headings shall not affect the interpretation of this Licence.
- 1.6 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.7 The Schedules form part of this Licence and shall have effect as if set out in full in the body of this Licence. Any reference to this Licence includes the Schedules.
- 1.8 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.9 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.10 Unless otherwise specified, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.11 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.12 A reference to writing or written includes fax but not e-mail.
- 1.13 A reference to this Licence or to any other agreement or document referred to in this Licence is a reference to this Licence or such other agreement or document as varied or novated (in each case, other than in breach of the provisions of this Licence) from time to time.

- 1.14 Unless the context otherwise requires, references to clauses and Schedules are to the clauses and Schedules of this Licence and references to paragraphs are to paragraphs of the relevant Schedule.
- 1.15 Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.16 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.

2. Consent To Carry Out The Works

- 2.1 In consideration of the obligations on the Tenant in this Licence, the Landlord consents to the Tenant carrying out the Works on the terms set out in this Licence.
- 2.2 This consent will cease to be valid if the Works have not been started (in accordance with the terms of this Licence) within six months from (and including) the date of this Licence, unless the Landlord gives the Tenant notice extending the period of validity. If the Landlord does agree to an extension, then this consent will remain valid for the period stated in that notice and the time period stated in clause 4.7.1 will be extended by the same amount. If this consent ceases to be valid and the Landlord has not given notice extending its validity, all the terms of this Licence except clause 2.1 will remain in force.
- 2.3 This consent does not obviate the need for the consent of any person other than the Landlord that may be required to carry out the Works.

3. Starting The Works

- 3.1 The Tenant must not start the Works until it has complied with the requirements of this clause and of clause 5.1.
- 3.2 The Tenant must obtain all licences and consents that are required for the Works under all laws and by the owner or occupier of any neighbouring land or otherwise.
- 3.3 The Tenant must provide details of the Works to the insurers of the Property and obtain their consent to carrying out the Works.
- 3.4 The Tenant must produce all such licences and consents to the Landlord and obtain the Landlord's confirmation they are satisfactory to the Landlord such confirmation not to be unreasonably withheld.
- 3.5 The Tenant must give the Landlord three copies of the plans and specification for the Works.
- 3.6 The Tenant must notify the Landlord and the insurers of the Property of the date it intends to start carrying out the Works.

4. Carrying Out And Completing The Works

- 4.1 The Tenant must carry out the Works:

- 4.1.1 using good quality, new materials which are fit for the purpose for which they will be used;
 - 4.1.2 in a good and workmanlike manner and in accordance with good building and other relevant practices, codes and guidance; and
 - 4.1.3 to the reasonable satisfaction of the Landlord.
- 4.2 In carrying out the Works the Tenant must comply with all laws and the terms of all other licences and consents, the requirements and recommendations of all relevant utility suppliers and those of the insurers of the Property.
- 4.3 The Tenant must take all proper steps to ensure that carrying out the Works does not make any of the following unsafe: the structure of the Building and any plant or machinery at the Building any neighbouring land or building.
- 4.4 The Tenant must cause as little disturbance and inconvenience as possible to the Landlord and the owners and occupiers of the Building and any neighbouring land. The Tenant must not infringe any of their rights nor the rights of any other person in relation to the Property.
- 4.5 The Tenant must immediately make good, to the reasonable satisfaction of the Landlord, any damage (including decorative damage) to any land or building or any plant and machinery (other than the Property) which is caused by carrying out the Works.
- 4.6 The Tenant must allow the Landlord and its surveyors access to the Property, both while the Works are being carried out and afterwards, and will give the Landlord the information it reasonably requests to establish that the Works are being and have been carried out in accordance with this Licence.
- 4.7 The Tenant must:
- 4.7.1 complete the Works by the Longstop Date; and
 - 4.7.2 must notify the Landlord as soon as the Works have been completed, and send the Landlord three copies of plans showing the Property as altered by the Works.
- 4.8 The Tenant shall provide the Landlord with a copy of any Energy Performance Certificate and Recommendation Report issued as a result of the Works within one month of such documents being issued.

5. The CDM Regulations

- 5.1 By entering into this Licence, the Tenant and the Landlord agree that, to the extent that the Landlord may be a client for the purposes of the CDM Regulations, the Tenant is to be treated as the only client in respect of the Works for the purposes of the CDM Regulations.
- 5.2 The Tenant must comply with its obligations as a client for the purposes of the CDM Regulations and must ensure that the principal designer and the principal contractor

that it appoints in relation to the Works comply with their respective obligations under the CDM Regulations.

- 5.3 The Tenant must ensure that all relevant documents relating to the Works are placed in the health and safety file for the Property by the principal designer or principal contractor in accordance with the CDM Regulations. The Tenant must maintain the health and safety file for the Property in accordance with the CDM Regulations and give the health and safety file to the Landlord at the end of the Term. The Tenant must allow the Landlord and its agents or appointees to enter the Property to inspect the health and safety file and must at its own cost supply the Landlord with copies of it or any of the documents in it.

6. Additional Works

- 6.1 If the terms of any planning permission, licence or consent (other than this Licence) obtained for the Works, require any other works to be carried out (whether to the Property or to any other land or building) the Tenant must carry out such other works within any time limit imposed by such permission, licence or consent and in any event before the end of the Term.
- 6.2 The terms of this Licence, other than clause 2 and clause 4.7.1 will apply to the carrying out of such other works as if they formed part of the Works.
- 6.3 This clause is without prejudice to any requirement on the Tenant to obtain the consent of the Landlord to such other works pursuant to the Lease and the consent of any other person that may be required for such other works.

7. Insurance Of The Works

- 7.1 The Landlord will only be obliged to insure the Works if they form part of Property, and only:
- 7.1.1 after they have been completed in accordance with this Licence;
- 7.1.2 for the amount for which the Tenant has notified the Landlord that they should be insured; and
- 7.1.3 otherwise in accordance with the terms of the Lease.
- 7.2 Until the Landlord is obliged to insure the Works they will be at the sole risk of the Tenant.
- 7.3 The Tenant must pay on demand any increase in the insurance premium and the amount of any additional insurance premium for the Property or any neighbouring land of the Landlord or the Building that arises because of the Works.

8. Fees, Rates And Taxes

The Tenant must pay all fees, rates, levies and taxes that arise by reason of the Works (including any arising under any laws applying to the Works) whether imposed

on the Landlord or the Tenant and must indemnify the Landlord from all liability in relation to such fees, rates, levies and taxes.

9. The Lease Covenants And Conditions

- 9.1 The tenant covenants in the Lease will extend to the Works and apply to the Property as altered by the Works.
- 9.2 In the event that the Works have not been completed by the Longstop Date the Landlord may exercise its right to forfeit the Lease under clause 39 of the Lease.

10. No Warranty By The Landlord

- 10.1 No representation or warranty is given or is to be implied by the Landlord entering into this Licence or by any step taken by or on behalf of the Landlord, in connection with it as to:
- 10.1.1 the suitability of the Property or the Building for the Works; or
- 10.1.2 whether the Works or any removal or reinstatement of them may be lawfully carried out.
- 10.2 The Tenant acknowledges that it does not rely on, and will have no remedies in respect of, any representation or warranty (whether made innocently or negligently) that may have been made by or on behalf of the Landlord before the date of this Licence as to any of the matters mentioned in clause 10.1.
- 10.3 Nothing in this clause shall limit or exclude any liability for fraud.

11. Costs

- 11.1 On completion of this Licence the Tenant must pay the reasonable costs and disbursements of the Landlord, its solicitors, surveyors managing agents and insurers in connection with this Licence.
- 11.2 The Tenant must pay on demand any further reasonable costs and disbursements of the Landlord, its solicitors, surveyors managing agents and insurers incurred in connection with the Works or any removal of them and reinstatement of the Property or in making good any damage to any land or building, plant or machinery (other than the Property) which is caused by the carrying out of the Works or by the removal of them or the reinstatement of the Property.
- 11.3 The obligations in this clause extend to costs and disbursements assessed on a full indemnity basis and to any value added tax in respect of those costs and disbursements except to the extent that the Landlord is able to recover that value added tax.

12. The Right Of Re-entry In The Lease

The right of re-entry in the Lease will be exercisable if any covenant or condition of this Licence is breached, as well as if any of the events stated in the provision for re-entry in the Lease occurs.

13. Indemnity

The Tenant shall indemnify the Landlord against all liabilities, costs, expenses, damages and losses suffered or incurred by the Landlord arising out of or in connection with any breach of the terms of this Licence.

14. Notices

Any notice given under or in connection with this Licence must be in writing and must be delivered by hand or sent by pre-paid first class post or other next working day delivery service or by any other means permitted by the Lease. A correctly addressed notice delivered by hand shall be deemed to have been delivered at the time the notice is left at the proper address. A correctly addressed notice sent by pre-paid first class post or other next working day delivery service will be deemed to have been delivered on the second working day after posting.

15. Liability

15.1 The obligations of the Tenant in this Licence are owed to the Landlord and are made in consideration of the consent granted by clause 2.1.

15.2 Where the Tenant comprises more than one person, those persons shall be jointly and severally liable for the obligations and liabilities of the Tenant arising under this Licence. The Landlord may take action against, or release or compromise the liability of, or grant time or other indulgence to, any one of those persons, without affecting the liability of any other of those persons.

16. Third Party Rights

A person who is not a party to this Licence shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Licence.

17. Governing Law

This Licence and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

18. Jurisdiction

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Licence or its subject matter or formation (including non-contractual disputes or claims).

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

The Schedule

Details of the Works

[Insert Works Specification and Drawings]

[Insert Landlord and Tenant's execution requirements]

Appendix Agreed Form of Collateral Warranties

This deed is made the _____ day of _____ 20____

Between:

- (1) [●Contractor] (Company number [●]) whose registered office is at [●] (the **Contractor**);
- (2) [●Beneficiary] (Company number [●]) whose registered office is at [●] (the **Beneficiary**); and
- (3) [●Employer] (Company number [●]) whose registered office is at [●] (the **Employer**).

Background:

- (A) The Employer has entered into or is about to enter into a Contract with the Contractor regarding the Works;
- (B) The Beneficiary [●provided finance] [●purchased or is about to purchase] [●entered into or is about to enter into a lease] [●regarding] [●the whole of] [●part of] the Works;
- (C) The Contractor has agreed to enter into this Deed for the benefit of the Beneficiary.

Operative provisions:

1 Definitions and interpretation

- 1.1 In this deed, unless the context otherwise requires, the following words have the following meanings:

Beneficiary	includes any person to whom the benefit of this Deed and/or any rights arising under it shall have been validly assigned in accordance with clause 6
Contract	the building contract entered into or about to be entered into between the Employer and the Contractor in relation to the Works
Design Documents	all drawings, details, plans, specifications, schedules, reports, models, bills of quantities, calculations, software and other work (and any designs, ideas, concepts and inventions contained in them whether patentable or not) which may be prepared, conceived or developed by or on behalf of the Contractor in the course of or as a result of carrying out the Works
Employer	includes any person to whom the benefit of the Contract has been validly assigned in accordance with its terms
Practical Completion	taking over of the Works as certified or otherwise evidenced pursuant to the terms of the Contract
Property	the location of the Works being [●]
Statutory Requirements	any requirements imposed by (a) any act of parliament, statutory instrument,

rule or order made under any act of parliament;

- (b) any regulation or bye law or approved code of practice of any local authority, statutory undertaker or other body which has jurisdiction with regard to the Works or to whose systems the Works are or will be connected; or
- (c) the terms of any planning permission, building regulation approval or other consent or approval required for the execution of the Works

Works the design and construction of the works as detailed in the Contract

1.2 In this deed, unless the context otherwise requires:

1.2.1 any obligation on a party to this Deed to do any act includes an obligation to procure that it is done;

1.2.2 the clause and paragraph headings in this Deed are for ease of reference only and are not to be taken into account in the construction or interpretation of any provision to which they refer;

1.2.3 unless the contrary intention appears, references:

(a) to numbered clauses and schedules are references to the relevant clause in, or schedule to, this Deed; and

(b) to a numbered paragraph in the schedule are references to the relevant paragraph in the schedule;

1.2.4 words in this Deed denoting the singular include the plural meaning and vice versa;

1.2.5 references in this Deed to any statutes or statutory instruments include any statute or statutory instrument amending, consolidating or replacing them respectively from time to time in force, and references to a statute include statutory instruments and regulations made pursuant to it;

1.2.6 words in this Deed importing one gender include both genders and may be used interchangeably, and words denoting persons, where the context allows, include corporations and vice versa.

2 Contractor's warranties

2.1 The Contractor warrants and undertakes to the Beneficiary that it has observed and performed and will continue to observe and perform each and all of the obligations on its part to be observed and performed under the Contract in accordance with the terms of the Contract, provided always that:

2.1.1 the Contractor shall owe no greater obligations to the Beneficiary under this Deed than it would have owed had the Beneficiary been named as a joint employer with the Employer under the Contract; and

2.1.2 the Contractor shall not be liable to the Beneficiary in respect of any delay to the completion of the Works unless and until the Beneficiary shall have given notice to the Contractor under clause 4.3.

2.2 Without limiting clause 2.1, the Contractor warrants and undertakes to the Beneficiary that:

- 2.2.1 insofar as the design of the Works is the responsibility of the Contractor under the Contract, it has exercised and will continue to exercise all such professional skill, care and diligence as may reasonably be expected of a skilled and competent architect, structural engineer, services engineer, acoustics engineer, landscape architect, fire consultant or as the case may be other appropriate professional designer holding itself out as competent to take on the design work of a similar type, nature and complexity to the Works;
- 2.2.2 using the standard of skill and care set out in clause 2.2.1, there has not been used or specified for use or authorised or permitted to be used in the Works or any part or parts thereof nor shall there be cause to use or suffer the use of any substances or materials:
- (a) known or suspected to be in themselves or as a result of the manner of their use a hazard to health;
- (b) which at the time the works are being carried out are within the building industry generally known or accepted as or reasonably suspected of:
- (i) being deleterious in themselves;
- (ii) becoming deleterious when used in a particular situation in combination with other substances or materials and with passage of time or through poor workmanship during construction or without a higher level of maintenance than that which would normally be expected in works of the type under construction; or
- (iii) being damaged by or causing damage to the structure on which they are incorporated or to which they are affixed;
- 2.2.3 for the purposes of clause 2.2.2 **deleterious** materials or substances are those whose durability is lower than specified or lower than might reasonably be expected of a substance or material specified or used for the purpose in which it is used or specified in the Works, or one which reduces or might reduce the durability of substances or materials to which they are applied or fixed, or reduce the durability of the structures into which they are incorporated or which reduce or might reduce the durability of the Works or part of the Works.
- 2.2.4 the Works as completed will in all respects comply with the Statutory Requirements;
- 2.2.5 it shall not raise any defence to a claim by the Beneficiary under this Deed on the grounds that the losses in respect of which the Beneficiary seeks damages, compensation or other relief are not losses suffered or to be suffered by the Employer or that the Employer has suffered no loss. The Contractor shall not be entitled to rely upon set off, counterclaim or defence arising from non-payment by the Employer of any monies due under the Contract.
- 2.3 The Contractor extends to the Beneficiary the benefit of all warranties and undertakings on the part of the Contractor contained in the Contract.
- 2.4 The Contractor acknowledges that the Beneficiary shall be deemed to have relied and shall continue to rely upon the warranties and undertakings given by the Contractor under this clause 2.
- 2.5 The Contractor acknowledges to the Beneficiary that, at the date of this Deed, the Contract remains in full force and effect and the Employer has paid all sums properly due to the Contractor under the Contract.
- 3 Obligations prior to determination of the Contractor's employment**
- 3.1 The Contractor covenants with the Beneficiary that it will not exercise nor seek to exercise any right to determine its employment under the Contract or to discontinue the performance of

any of its obligations in relation to the Works for any reason, including any breach on the part of the Employer, without giving to the Beneficiary not less than 28 days' notice of its intention to do so and specifying the grounds for the proposed determination or discontinuance.

- 3.2 Any period, whether stipulated in the Contract or otherwise, for the exercise by the Contractor of a right of determination shall be extended, as may be necessary, to take account of the period of notice required under clause 3.1.
- 3.3 Compliance by the Contractor with clause 3.1 shall not be treated as a waiver of any breach on the part of the Employer giving rise to the right of determination, nor otherwise prevent the Contractor from exercising its rights after the expiration of notice, unless the right of determination shall have ceased under the provisions of clause 4.

4 Step in right

- 4.1 The right of the Contractor to determine its employment under the Contract shall cease if, within the period of 28 days referred to in clause 3.2, the Beneficiary shall give notice to the Contractor:
- 4.1.1 requiring it to continue its obligations under the Contract;
 - 4.1.2 acknowledging that the Beneficiary is assuming all the obligations of the Employer under the Contract; and
 - 4.1.3 undertaking to the Contractor to discharge all payments which may subsequently become due to the Contractor under the terms of the Contract and to pay to the Contractor any sums which have become due and payable to it under the Contract but which remain unpaid.
- 4.2 Upon the compliance by the Beneficiary with the requirements of clause 4.1 the Contract shall continue in full force and effect as if the right of determination on the part of the Contractor had not arisen and in all respects as if the Contract had been entered into between the Contractor and the Beneficiary to the exclusion of the Employer.
- 4.3 Notwithstanding that as between the Contractor and the Employer the Contractor's right of determination of its employment under the Contract may not have arisen the provisions of clause 4.2 shall apply if the Beneficiary gives notice to the Contractor and the Employer to that effect and the Beneficiary complies with the requirements on its part under clause 4.1.
- 4.4 The Contractor shall be bound to assume that, as between the Employer and the Beneficiary, circumstances have occurred which permit the Beneficiary to give notice under clause 4.3.
- 4.5 The Employer acknowledges that the Contractor, acting in accordance with the provisions of this clause 4 shall not incur any liability to the Employer.

5 Use of Design Documents

- 5.1 The copyright in the Design Documents shall remain vested in the Contractor, but the Contractor grants to the Beneficiary an irrevocable royalty-free non-exclusive licence to use and to reproduce any or all of the Design Documents for any purpose connected with the Works and/or the Property including, but without limitation, the execution and completion of the Works and the maintenance, letting, occupation, management, sale, advertisement, extension, alteration, demolition, reinstatement and repair of the Property.
- 5.2 The licence referred to in clause 5.1 shall carry the right to grant sub-licences and shall be transferable to third parties and shall subsist notwithstanding the determination (for any reason) of the Contractor's employment under the Contract, provided always that the Contractor shall not be liable for the consequences of any use of the Design Documents for any purpose other than that for which it was prepared.
- 5.3 Insofar as the Contractor is the author of the Design Documents and of the Works, the Contractor waives any moral rights which it might otherwise be deemed to possess in respect

of them. The Contractor shall not exercise his moral rights against the Beneficiary and the Contractor agrees that the Beneficiary is entitled to make any reasonable changes or amendments to the design prepared by or on behalf of the Contractor.

- 5.4 The Contractor shall procure for the Beneficiary a waiver corresponding to that in clause 5.3 from any sub-contractor or consultant employed by the Contractor who is an author of any part of the Design Documents and of the Works in respect of them.
- 5.5 The Contractor shall indemnify the Beneficiary against any liability which the Beneficiary may incur by reason of the Contractor's infringing or being held to have infringed any copyright or other intellectual property rights of any person.
- 5.6 The Contractor shall within 28 days of the Beneficiary's request provide a complete set of copies of the Design Documents to the Beneficiary without charge.

6 Assignment

- 6.1 The Beneficiary may assign the benefit of this Deed and/or any rights arising under it on notice to the Contractor at any time without the Contractor's consent.
- 6.2 The Contractor shall not be entitled to contend that any person to whom this Deed is assigned is precluded from recovering any loss incurred by such assignee from any breach of this Deed (whenever occurring) by reason that such a person is an assignee and not a named Beneficiary under this Deed.

7 Insurance

- 7.1 The Contractor undertakes to the Beneficiary to maintain with reputable insurers carrying on business in the United Kingdom, from the date of this Deed and for a period expiring no earlier than 12 years after the date of Practical Completion and notwithstanding the determination for any reason of the Contractor's employment under the Contract, professional indemnity insurance, with a limit of indemnity of not less than £[●],000,000 ([●] million pounds) in respect of each and every claim, provided always that such insurance continues to be available in the United Kingdom market upon reasonable terms and at commercially reasonable premium rates.
- 7.2 As and when it is reasonably required to do so by the Beneficiary, the Contractor shall produce for inspection by the Beneficiary documentary evidence that such insurance is being properly maintained.
- 7.3 The Contractor shall notify the Beneficiary immediately if such insurance ceases to be available upon reasonable terms and at commercially reasonable premium rates or if for any other reason the Contractor is unable to continue to maintain such insurance.
- 7.4 The Contractor shall not compromise, settle or waive any claim which it may have under such insurance in respect of any professional liability which it may incur under this Deed without the prior written consent of the Beneficiary provided that nothing in this clause 7.4 shall preclude the Contractor's insurers from taking over (in the name of the Contractor) the defence of any claim made by the Beneficiary under this Deed and (in that capacity) from conducting and settling it as they see fit.
- 7.5 The Contractor shall take out and maintain the insurance cover required under this clause 7 on terms which are satisfactory to the Beneficiary.

8 Other remedies

- 8.1 Nothing in this Deed shall in any way limit or affect any other rights or remedies (whether under any contract, at law, in equity or otherwise) which the Beneficiary would have against the Contractor in the absence of this Deed.
- 8.2 The liability of the Contractor under this Deed shall not be released, diminished or in any other way affected by:

- 8.2.1 the appointment by the Beneficiary of any person to survey the Property or to monitor the carrying out of the Works or to inspect any documents relating to them on behalf of the Beneficiary or the failure to appoint such a person;
- 8.2.2 any approval or consent given or withheld or purported to be given or withheld by or on behalf of the Beneficiary; or
- 8.2.3 any other independent inquiry into any relevant matter which the Beneficiary may make or fail to make.

9 Limitation

No action or proceedings for any breach of this Deed shall be commenced against the Contractor after the expiry of 12 years following Practical Completion of the Works.

10 Notices

- 10.1 Any notice or consent required or permitted under this Deed shall be in writing and shall be sent by first class post, hand delivery or fax. There shall be no right to serve notices or consents by email.
- 10.2 Any such notice, consent or other document shall be deemed to have been duly received:
 - 10.2.1 if despatched by first class post - 48 hours from the time of posting to the relevant party; or
 - 10.2.2 if despatched by hand delivery - at the time of actual delivery; or
 - 10.2.3 if despatched by fax - 24 hours after the time of the despatch.
- 10.3 In proving service by post it will be sufficient (unless any relevant part of the postal service is affected by industrial action) to prove that the envelope containing the notice was duly stamped addressed and posted to the addresses given for a party in this Deed or such other addresses subsequently notified in writing as being the registered office or principal address of business of the relevant party. In proving service by fax it shall be sufficient to prove that it was properly addressed and dispatched to the numbers as notified in writing by the relevant party to other parties.
- 10.4 A party shall not attempt to prevent or delay the service on it of a notice under this Deed.

11 Governing law and disputes

The application and interpretation of this Deed shall in all respects be governed by the laws of England and any dispute or difference arising under this Deed shall be subject to the jurisdiction of the courts of England.

12 Third Party Rights

- 12.1 Unless the right of enforcement is expressly granted, it is not intended that a third party should have the right to enforce a provision of this Deed.
- 12.2 The parties may rescind or vary this Deed without the consent of a third party to whom an express right to enforce any of its terms has been provided.

In witness this deed has been executed and delivered on the date appearing at the beginning

Signature page to the Deed of Warranty between [●Contractor], [●Beneficiary] and [●Employer].

Executed as a deed by [•])
acting by [•] ,a director,)
in the presence of)

Witness signature

Witness name

Witness address

Witness occupation

Executed as a deed by [•])
acting by [•] ,a director,)
in the presence of)

Witness signature

Witness name

Witness address

Witness occupation

Executed as a deed by [•])
acting by [•] ,a director,)
in the presence of)

Witness signature

Witness name

Witness address

Witness occupation



DO NOT SCALE

THE CONTRACTOR IS TO CHECK AND VERIFY ALL BUILDING AND SITE DIMENSIONS, LEVELS AND SEWER INVERT LEVELS AT CONNECTION POINTS BEFORE WORK STARTS

THIS DRAWING IS TO BE READ AND CHECKED IN CONJUNCTION WITH ENGINEERS AND OTHER SPECIALIST DRAWINGS

THE DRAWING AND THE WORKS DEPICTED ARE THE COPYRIGHT OF THIS PRACTICE AND MAY NOT BE REPRODUCED EXCEPT BY WRITTEN PERMISSION

- NOTES**
- BOATYARD
 - COMMUNITY CENTRE
 - DELI/RESTAURANT
 - FLATS
 - TERRACED HOUSES
 - SINGLE HOUSE
 - VICARAGE EXTENSION
 - SITE BOUNDARY
(NOTE THAT THE BOUNDARY TO BRIDGE AREA IS INDICATIVE)
 - * LOCATION OF CONTROL BOX AND PROTECTIVE BARRIERS TBA WITH THE CRT

PLANNING CHANGES:

- POSITION OF BRIDGE MOVED TO THE SOUTH (PLANNING BOUNDARY LINE AMENDED TO SUIT)
- BRIDGE WIDTH INCREASED TO SUIT EA REQUIREMENTS
- CORNER OF RESTAURANT BLOCK CHANGED
- ROOF TERRACES AROUND VICARAGE AMENDED
- REAR OF 3 TERRACED HOUSES MOVED BACK
- MASSING OF COMMUNITY CENTRE & BOATYARD AMENDED
- MAIN ROOF OVER COMMUNITY CENTRE & BOATYARD CHANGED TO 3 PITCHES
- NEW HOUSE ON ST. BARNABAS STREET CHANGED TO FLATS
- BIN STORE TO REAR OF RESTAURANT RECONFIGURED

REV	DATE	DESCRIPTION
P5	20.05.15	PLANNING CHANGES
P4	09.01.15	PLANNING CHANGES
P3	12.12.14	PLANNING CHANGES
P2	17.11.14	PLANNING CHANGES
P1	14.05.14	PLANNING SUBMISSION

Haworth Tompkins

JOB	1018, JERICO WHARF
DRAWING TITLE	GROUND FLOOR PLAN PROPOSED
DRG No	1018/0/010
SCALE	1:250 @ A1
DATE	28.04.14
DRAWN BY	CHECKED BY
Drawing Status	FOR INFORMATION

These are the notes referred to on the following official copy

The electronic official copy of the title plan follows this message.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.

This official copy was delivered electronically and when printed will not be to scale. You can obtain a paper official copy by ordering one from Land Registry.

This official copy is issued on 14 May 2015 shows the state of this title plan on 14 May 2015 at 19:20:31. It is admissible in evidence to the same extent as the original (s.67 Land Registration Act 2002). This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground. This title is dealt with by the Land Registry, Gloucester Office .

F.A.O. Michael Morgan

Oxford City Council
St Aldate's
Oxford
OX1 1DS

1 June 2015

Your Ref:

Our Ref: JRM/JWT

Direct Line:

Email:

Dear Mr Morgan

My client: Jericho Wharf Trust
Property: Land at Jericho Wharf, Oxford

Thank you for your e-mails of 21 May 2015. I refer to our subsequent telephone conversation and my client's e-mail of 29 May 2015.

In the short time available, and noting the many information gaps in the documents provided, I have had the opportunity to prepare an overview for my client of the following documents as amended by Penningtons the solicitors acting for Cheer Team Corporation Limited (**the Developer**):

- i) Section 106 Agreement between (1) Cheer Team Corporation Limited and (2) The Oxford City Council;
- ii) Agreement for Lease with Landlord's Works between (1) Cheer Team Corporation Limited and (2) [Tenant];
- iii) Lease between (1) Cheer Team Corporation Limited and (2) [Tenant]; and
- iv) Licence for Alterations between (1) Cheer Team Corporation Limited and (2) [Tenant].

The following documents are enclosed:

1. Official copy entries and title plan for title number ON268665;



in association with



2. Transfer dated 22 December 2006 between (1) British Waterways Board and (2) Spring Residential Limited (**the December 2006 Transfer**);
3. Option Agreement dated 22 December 2006 between (1) Spring Residential Limited and (2) British Waterways Board (**the December 2006 Option Agreement**);
4. Deed of Covenant dated 22 December 2006 between (1) Spring Residential Limited and (2) British Waterways Board (**the December 2006 Deed of Covenant**); and
5. Sale Contract dated 3 May 2007 between (1) Spring Residential Limited and (2) Jericho Community Association (**the 2007 Sale Contract**);
6. Two indicative plans showing the extent of the JCA Land (see below).

By way of background you will recall that I sent through to both you and the Developer's solicitors some commentary on the initial draft of the Section 106 Agreement on 14 April 2015.

After that I tried to contact Penningtons on a number of occasions to discuss the structure of the transaction. They have not responded substantively.

The Developer's Commitments

My client's understanding of the Developer's commitments come in part from the verbal representations made by Mr Sandelson of the Developer at the WAPC meeting on 10 February 2015 (these are set out in italics below); the Minutes of that meeting dated 13 February 2015 and an e-mail from Mr Sandelson dated 10 February 2015 and are as follows:

- a commitment to undertake canal works (bank, winding hole and boatyard docks) in conjunction with the Canals & Rivers Trust;

"...if you promote our plan tonight the city will be delivered...a community boatyard, a chandlery, a bridge, a winding hole, a public piazza..."

This point was subsequently added to the final form Minutes which state "Mr Sandelson confirmed his commitment to building the entirety of the boatyard and the chandlery building".

- the transfer of land (being the freehold to the boatyard, community centre and public open space) to a Community Body with cascade mechanisms to ensure the community facilities provision is achieved. My client is to be preferred receiving body for the unencumbered title to the land; and

"...land donated to the community group unencumbered for £1..."

- a payment of £150,000 to a Community Body;

"...I wanted to demonstrate to the Councillors and I suppose to the Community that we really did want to see this thing promoted tonight. And we don't think there is an actual necessity for it. But sometimes you know at the 11th hour it is nice to make a

gesture, so we did offer £150,000 at the signing of the Section 106 to the JWT to help with their fundraising for the community centre...".

Further and as reflected in the Minutes the triggers for construction/phasing of the development and the occupation of the residential units not being occupied until the construction of the public open space, works to the Canal, docks/boatyard etc has been completions.

Again the Developer made this commitment verbally at the WAPC Meeting:

"...we have confirmed as part of our commitment to the city that none of the private house will occupied until all of these facilities are built..."

These matters are not reflected in the amendments to the Section 106 Agreement and the draft documentation supplied.

Amendments to the Section 106 Agreement

Concentrating on the commitments detailed above and turning to the Section 106 Agreement it is clear to see that the structure proposed in respect of these items is so different that, in our opinion, it is simply not acceptable to my client (or any other Community Body for that matter). For example many of the funding streams normally accessible to Community Organisations are unlikely to be available for leasehold entities Further the timetables laid down for most public grant applications are incompatible with the timings required by the structure proposed.

I would suggest that the amendments should not be acceptable to the Council, whose decision to relax the requirement for affordable housing was based on delivery of the community facilities and the public square (which now appears to be at risk).

- Payment of £150,000

There is no obligation anywhere in the revised documentation for the payment of £150,000 to the Community Body. In fact that obligation has been deleted.

This is a far cry from Mr Sandelson's assurance in the WAPC Meeting when pressed by the Chair as to whether or not this commitment would be in the Section 106 Agreement

"...I would not make a commitment and then renege on it..."

Further this commitment was repeated in a live interview given with Radio Oxford.

"Interviewer: is that right you offered £150,000 to kick start this?"

JS: 'We did. We wanted to show a last minute act of goodwill and support to the community trusts, who as you say have been working on the thing for years. We though that would give them a boost in their fundraising efforts.'

- Timing of occupation of Residential Units

A key element of accountability is that the residential units will not be occupied until the buildings works that the Developer is committing to have been completed. As originally drafted paragraph 8.3 stated

"The Owner shall not cause or permit the residential occupation of any part of the Development prior to the transfer of the Community Centre Land to the Jericho Wharf Trust."

However that obligation has been changed dramatically to simply:

"...prior to entering into the Agreement for Lease..."

Looking at this element of the Agreement for Lease the document simply has a reasonable endeavours obligation at Clause 3 of the Agreement for Lease for the Landlord to carry out a set of works (which are not fully described or specified).

There is no obligation on the Landlord to start or complete the works within a set period of time.

However the Agreement for Lease is conditional on the Community Body raising £5 million in "Satisfactory Funding" within 3 months of exchange of the Agreement for Lease after which the document could be terminated. That timeframe, as the Developer well knows, is simply too onerous if not impossible. Furthermore there is no justification provided or known for the sum designated as "Satisfactory".

Therefore this structure allows the Developer to sell the residential units before completing the works that it has committed to do and then putting the onus on the Community Body to raise its funds.

- Transfer of Community Land

The structure suggested is a leasehold structure. Given that this is not a transfer and therefore not what the Developer has committed to I do not propose in this letter to set out my issues with the documents in any great detail.

Such issues include:

- a forfeiture clause in a 999 year lease;
- a best endeavours obligation on my client to build the Community Centre within three years (time being of the essence) but the Developer's obligation is just a reasonable endeavours obligation without any set time period;
- the Tenant is to pay the Developer's costs in negotiating the Agreement for Lease, Lease and Licence for Alterations; and
- there is a blanket prohibition on alienation and in particular underletting which may be inappropriate.

My client's continuing and reasonable expectation, based on the assurances given by the Developer is that the completed boatyard, community land and the maintenance/management obligations for the Community Centre and Public Open Space will be transferred to it.

However under the structure proposed the freehold of all land, and the control of the boatyard, remains with the Developer and a service charge regime is being introduced for the leasehold property (once constructed at community expense).

Title Number ON268665

Finally the leasehold structure ignores a fundamental legal point in respect of the title to the Property itself.

The Developer has stated that he has acquired the Property. Looking at the official copy entries and title plan for title number ON268665 it should be noted that there is an application pending at the Land Registry in favour of the Seller. I can only assume this is the Transfer to the Developer and it will be necessary to see a copy of that document.

There is a restriction at entry 3 of the Proprietorship Register which states

"No disposition of the registered estate in respect of the land tinted pink on the title plan by the proprietor of the registered estate is to be registered without a certificate signed by British Waters Board of Willow Grange, Church Road, Watford, WD17 4QA or their conveyancer that the provisions of Clause 13.2.5 of the Transfer dated 22 December 2006 referred to in the Charges Register have been complied with"

Clause 13.2.5 of the 2006 Transfer states

"not to transfer the JCA Land to the Jericho Community Association and/or the Trustees of the Church Institute of 45-46 Cardigan Street Oxford...without obtaining a direct covenant from the Buyer that

13.2.5.1 the JCA Land will be held for a period of 40 years from the date of the Transfer to the Buyer ("Perpetuity Period") upon trust in accordance with the charitable objects set out in the constitution of Jericho Community Association dated [] (sic) ("the Constitution")

13.2.5.2 in the event the JCA Land is subsequently sold by the Buyer during the Perpetuity Period the proceeds of sale will be used exclusively for the charitable purposes as set out in the Constitution".

Therefore if the Developer has completed the acquisition of the Property then it will need to have given this covenant to the Canals & Rivers Trust in order to be registered as the proprietor.

Further the 2006 Transfer transferred the Property subject to the December 2006 Option Agreement.

The Property is also subject to a conditional contract for sale in respect of the land coloured pink on the title plan (**the Community Centre Land**) being the 2007 Sale Contract.

These documents are protected by way of Unilateral Notices on the title.

The December 2006 Option Agreement gives the Canals & Rivers Trust the ability to take a transfer back of the Community Centre Land at any time after 22 December 2016.

The ability to call for this transfer falls away if planning consent for the "Proposed Development" has been "Substantially Implemented" before 22 December 2016.

The Proposed Development is defined as

"the construction of a new community centre and ancillary facilities".

Substantially Implemented is defined as

"the completion of all the foundations of the Proposed Development and the erection of no less than one course of bricks (or equivalent material) on at least 50% of the perimeter of the footprint of the Proposed Development".

If they exercise the Option the amount the Board is required to pay is a peppercorn.

Spring then entered into the 2007 Sale Contract with Jericho Community Association in respect of the sale of Community Centre Land for a consideration of £1.00.

The 2007 Sale Contract is conditional on the grant of planning permission authorising "community use of the Property (with or without other land)" and Spring obtaining planning permission for the development of the remainder of the Property (i.e excluding the Community Centre Land) as residential land.

If the conditionality is not satisfied by 3 May 2017 then either party may terminate the contract. Only Spring can elect to waive the conditionality.

Once planning has been obtained (and was free from any challenge) then the Community Centre Land would be transferred and the obligation referred to in the 2006 Deed of Covenant relating to "Buyer's Works" would be removed from the title to Community Centre Land.

The 2007 Sale Contract is personal to Jericho Community Association (although there is a provision that the transfer of the Community Centre Land may be taken jointly with the Church Institute, Oxford).

It is within this legal framework that the Developer is operating and I have no contrary evidence to suggest that any of provisions of the December 2006 Transfer, the December 2006 Option Agreement, the December 2006 Deed of Covenant or the 2007 Sale Contract are not binding on the Developer.

The enclosed plans show that the Developer's planning permission is based upon a design which for around one-third of the footprint uses the JCA land. In the structure when the freehold land was being transferred to my client for £1 these title points would have been eliminated since my client and the Jericho Community Association would simply combine these two plots.

Therefore because of this I doubt the proposed leasehold structure would allow the Developer to build the boatyard and the slab 'roof' without entering into a separate agreement with the Jericho Community Association.

Conclusion

My advice to my client is that the proposals put forward are unacceptable and importantly key elements of what the Developer had previously indicated would be included as its obligations in the Section 106 Agreement have not been included.

It is not clear whether this is deliberate, by error or by a lack of understanding on the part of the Developer and or its solicitors.

Therefore I would suggest that the proposal to discuss this matter at a Committee hearing on 9 or 11 June is postponed. A meeting should then be convened between the Council, the Developer and my client (with legal representation) to properly examine the structure that is required to deliver the scheme and to meet the proper and reasonable expectations of each of the interested parties.

At such a meeting the title issues detailed above can also be addressed.

A copy of this letter and the enclosures has been sent to Penningtons.

I look forward to hearing from you.

Kind regards

Justin Mason
Partner
Capital Law LLP

From: Stephen Green
Sent: 26 October 2015 09:13
To: BYRNE Felicity
Cc: Johnny Sandelson
Nick Owens
Subject: Jericho Canalside Scheme. Application Ref: 14/01441/FUL

Appendix 6

MORGAN Michael;

Dear Mrs Byrne

I thought it helpful to write to you, on behalf of our clients , to summarise the progress that has been made in respect of the 106 issues, following the in principle decision to approve the application at the Planning Committee on 10th February 2015. The points below address issues raised by the Parochial Church Council and Jericho Wharf Trust.

Second Bridge link to the square.

Both the PCC and JWT have been keen to see a bridge link into the square to promote more activity and vitality.

Various issues on bridge type and location were discussed at length at our stakeholders meeting in March (11 people present) and we have come to the inescapable conclusion, that the only way to satisfy the disparate aspirations, is for a second bridge to be provided linking to the square.

You are aware of the difficulties this has caused, most notably the CRT'S requirement that a second bridge has to be located at least 40 metres from the winding hole on safety grounds. You are aware also that the design of the bridge was amended last week to accommodate the needs of horse boat users. We understand the PCC are in support of the second bridge, as this fulfils their requirements.

The first bridge

The design principles have now been approved by the CRT and an agreement has been reached to pay the CRT a commuted sum for maintenance of the bridge in perpetuity.

The Boatyard

Certain parties have suggested that are unlikely to deliver certain elements of the scheme. It is worth pointing out there is no obligation from the Council for to build the boatyard. Notwithstanding this, propose to build the Boatyard and to install a professional operator, given the Health & Safety issues and also amenity issues potentially affecting the neighbouring residents of both the affordable and private housing. This will not preclude the community from having access to the facilities of the Boatyard.

Community centre site

We can confirm that the freehold of that element of the community centre that does not oversail the boatyard would be available on a freehold basis, either from or as a result of JCA/JWT exercising their option to acquire this part of the site. The area above the boatyard has to be conveyed on a long leasehold basis (999 years at a peppercorn) given that it oversails the boatyard and therefore would otherwise be a flying freehold. A structural deck is to be provided by above the Boatyard to accommodate the development of a Sports Hall above. We understand that funds from the disposal of the PCC'S freehold asset in Canal Street could be put towards the construction of the freehold element of the community centre.

Piazza

Lawyers representing JWT have suggested that the public open space is transferred to them, but they should have no ongoing maintenance obligation. SIAHAF propose that custodianship of the new square

is undertaken by the management company of the restaurant and residential units, with each party paying a service charge to defray costs of maintenance of both the piazza and the second bridge. It is noted that the Church may wish to encourage the presence of the farmers' market in the square.

Payment of £150,000

It is confirmed that this payment will be paid on the signing of the 106 Agreement, but on stipulation that it is used for the development of the community centre.

Timing of the community centre transfer

At the meeting of the Planning Committee on 10th February, it was proposed in the first instance that the community centre site should be offered to the JWT and they would have a period of time (three months) to take up the offer or not. JWT have indicated that this would be insufficient time to make a commitment and SIAHAF have therefore agreed to extend this period to 12 months. Given the time that has elapsed since the committee resolution February, has any fundraising been undertaken during this period??

Transfer costs

It is proposed that each party pay their own legal costs in finalising any transfer.

JCA conditional contract

A letter from Capital Law acting for JWT refers to a sale contract between JCA and Spring Residential, to secure part of the site for a community centre. Capital Law point out various issues.

Timing of construction

... need to be reassured, particularly as JWT will not provide sight of their business plan, that construction of the community centre can be carried out on a timely basis. It is likely that this contract will be ongoing after the boatyard, winding hole, repairs to the canal wall and provision of the restaurant and residential units are completed.

To summarise, you are aware of just how complicated it has been to ensure that all stakeholders and others aspirations are fulfilled, whilst at the same time ensuring that the project is capable of delivery.

We have, over the intervening eight months, progressed the scheme to the point where we feel it now time for the committee to review the 106 proposals. We trust the committee will now endorse these proposals in order that the scheme can progress, with the ensuing enhancements and benefits that it will bring to the area.?

Perhaps you could telephone me on receipt of this letter, to advise on how matters can now be progressed.

Regards

Stephen Green MA FRICS

Future Heritage Group

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From: Stephen Green
Sent: 18 November 2015 15:31
To: BYRNE Felicity
Cc: MORGAN Michael; Nick Owens; Johnny Sandelson

Appendix 7

Subject: Jericho: Bridges 1 and 2.
Attachments: Jericho Wharf estimated service charge November 2015.pdf

Dear Mrs. Byrne,

When we last met, I confirmed that the CRT have agreed (subject to Cheer Team making a commuted payment) to maintain in perpetuity the lifting bridge (bridge 1) that links with Great Clarendon Street.

The second bridge (bridge 2) which links with the square is a simpler steel and timber structure and the intention is that long term maintenance will be undertaken by the Residents Management Company. All the residents of the private houses will make an annual contribution towards the maintenance and upkeep of the 'Estate', which will also include the canalside path and Piazza.

As you will appreciate this is a standard arrangement commonly in operation for many Estates and blocks of flats etc.

Don't hesitate to contact me if you need any further clarification.
Attached is a draft service charge budget.

Regards

Stephen Green
Future Heritage Group

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West Area Planning Committee

5th January 2016

- Application Number:**
- (1) 14/02402/CND4
 - (2) 14/02402/CND3
 - (3) 13/02557/CND12
 - (4) 14/02402/CND

Decision Due by: 22nd January 2016

- Proposal:**
- (1) Details submitted in compliance with condition 5 (public realm works) of planning permission 14/02402/RES.
 - (2) Details submitted in compliance with condition 8 (Details of Lantern to Building 4) of planning permission 14/02402/RES.
 - (3) Details submitted in compliance with conditions 21 (cycle parking) and 22 (cycle facilities) of planning permission 13/02557/OUT.
 - (4) Details submitted in compliance with conditions 6 (landscaping) and 17 (elevational treatments) of planning permission 14/02402/RES

Site Address: Westgate Centre And Adjacent Land Encompassing The Existing Westgate Centre And Land Bounded By Thames St, Castle Mill Stream, Abbey Place, Norfolk St, Castle St, Bonn Square, St Ebbes St, Turn Again Lane And Old Greyfriars St (**site plan: appendix 1**)

Ward: Carfax Ward

Agent: Turleys

Applicant: Westgate Oxford Alliance

Recommendation:

The West Area Planning Committee is recommended the following

1. To approve the details submitted in compliance with conditions 21 (cycle parking) and 22 (cycle facilities) of outline permission 13/02557/OUT and condition 5 (public realm) and 8 (lantern design) of the reserved matters permission 14/02402/RES

2. To approve the amendments to the details approved under conditions 6 (landscaping) and 17 (elevational treatments) of reserved matters permission 14/02402/RES
3. To delegate to officers the ability to determine any future minor amendments that may be submitted as part of each of these conditions.

Background to Case

1. At its meeting of 25th November 2014 West Area Planning Committee resolved to grant planning permission for reserved matters application 14/02402/RES for the Westgate development subject to conditions. The committee had previously granted outline planning permission for the development (13/02557/OUT) at its meeting on the 11th March 2014, also subject to conditions and accompanying legal agreement.
2. In approving the reserved matters application (14/02402/RES), the committee requested that the following conditions be brought back to committee for consideration and determination.
 - Landscaping at Abbey Place and at Greyfriars Place to the west of Turn Again Lane;
 - Elevational details relating to the south side of building 4; to the north - east side of building 3; the eastern elevation of building 3 to Old Greyfriars Street; and to Pennyfarthing Place;
 - Public realm features;
 - The lantern feature to building 4; and
 - Details of the cycle parking (condition on permission 13/02557/OUT) to ensure that the concerns of Cyclox were addressed.
3. This report will consider the details that have been submitted in relation to the public realm features; lantern to building 4; and the cycle parking provision for the development. The first two matters on the list have already been approved by the West Area Planning Committee on the 10th March 2015 however amendments are also sought to the landscaping within Greyfriars Place and Elevational details to the south side of building 4 under these conditions. These are also considered within the report.

Officers Assessment

Condition 5: Details of the Public Realm Works

4. Condition 5 of the reserved matters permission reads

Within 12 months of the commencement of development the specification and locations for each of the public realm materials to be approved, plus the design and location of street furniture relating to all covered areas and public spaces shall be submitted to and approved in writing by the local planning authority, and shall be implemented prior to the first opening of the development for trading. Amendments to the approved details may be agreed in writing from time to time

by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: In the interests of the visual appearance of the public realm to the development, in accordance with policies CP1, CP8, CP9 and CP11 of the adopted Oxford Local Plan 2001 to 2016.

5. In response to this condition the Westgate Alliance Oxford have provided more details on elements of the public realm which follow the basic principles for the public spaces and squares established at outline and reserved matters stage. These elements include the type of paving, location and specification of bus shelters, seating, and litter bins for public spaces; and the type of paving and specification of post mounted digital screens, furniture and circulation zones for the covered areas; along with wayfinding signage for the public spaces and covered areas.
6. Paving Types: Within the main public realm surrounding the development, the palette of materials will include the use of natural York stone paving of varying sizes at the key nodal points around the development, such as Bonn Square; Castle St / New Road Corner; Castle St / Norfolk St transition; Norfolk St / Norfolk Lane transition; and Turn Again Lane. The pedestrian footpaths in between these nodal points will be formed from concrete paving with stone setts while resin bound aggregate surfacing is proposed alongside Castle Mill Stream.
7. In the covered areas the paving materials will be similar to those in the surrounding streets so that the spaces on all levels are experienced as part of the streets and lanes of Oxford rather than an internal shopping mall. Therefore at the key nodal points the natural York stone paving will flow into the covered areas of the centre at Bonn Square, Turn Again Lane / Middle Square / South Arcade junction, and South Square. It would also be used in parts of the roof top area at second floor level. Granite paving will then be used throughout South Square, south arcade, Middle Square, north arcade, and at roof top level. There will be variances in the pattern of this paving through the different areas to distinguish the spaces, the most notable being in North Arcade which will have a chequered pattern and South Square which will employ a diagonal / herringbone pattern. The other paving types in the covered areas would include concrete pavers in Greyfriars Lane which lead from South Square to Old Greyfriars St; clay pavers at the second floor roof top level; timber on the bridge links; and synthetic grass at roof top level.
8. Bus Shelters: The location and specification of the bus shelters have been developed in consultation with bus operators and the County Council. The bus stops are to be located in Norfolk Street, Castle Street, and Thames Street. The locations have been determined following studies of pavement width, sight lines, and pedestrian movement.
9. The shelters are to be consistent with the current specification of other bus shelters within the city centre. There will be 14 in total, with the majority being 6 bay shelters with 4 bays shelters used where there are space restrictions.

10. Bollards: The scheme will include the placement of bollards at entrance points to the lanes into the Westgate Development and Castle Mill Stream pathway for security purposes and to prevent vehicles accessing the quasi-public spaces. The location and spacing of the bollards has been co-ordinated with the other street furniture or landscaping so as to reduce their visual impact and the clutter within the public spaces.
11. Seating: The location of seating within the public realm has been designed following a review of the pedestrian movement. This has identified seating opportunities to the site entrances (Bonn Square and Norfolk Street) and the main public spaces in Greyfriars Place and Castle Mill Place. It is also proposed to integrate seating into the built form of the western elevation on Castle Street and the southern elevation of Block 2 on Speedwell Street.
12. The type of seating will include large benches in Bonn Square and Old Greyfriars Street, and standard sized benches alongside Castle Mill Stream. A circular bench will be placed around the trunk of the tree in Castle Street, and smaller cube seating will be used in Greyfriars Place.
13. Litter Bins: The litter bins will be located in close proximity to the bus stops and entrance and exit points to the development. The litter bins will have a similar appearance to the wayfinding furniture and will include 'westgate' branding in order to have some consistency with these elements inside and outside the development.
14. Post-Mounted Digital Screens: A total of 9 post-mounted digital screens will be located within the ground and upper ground levels of the covered areas of the Westgate Development. The screens will be double-sized and encased in a metal frame on a two-legged post. The screens would be coloured bronze to reflect the family of other furniture (litter bins and wayfinding). The size of the screens and their frames would be discreet so as to work with the setting in the arcades and squares. The digital screen would only be sited in the top half of the frame with the bottom half open so as to further reduce the visual impact.
15. Wayfinding Signage: The wayfinding signage would consist of a full height totem (3m), mini totem (2.4m), and finger posts (2.8m) which would be formed from bronzed aluminium panels in order to be consistent with other wayfinding signage throughout the city centre.
16. The full height totems will give full orientation information at key entry points to the development and include a centre map and other directional signage to parts of the development and city in general. There will be 12 in total located at the entrances on Bonn Square, Turn Again Lane, Greyfriars Place, and then throughout South Square, South Arcade and Middle Square.
17. The mini-totem is a smaller scale version of the full height totem and will be used on the roof terrace at the main entrance points. There will be 4 in total and they will include directional information to the key points on the roof terrace.

18. The finger posts are provided in areas with lighter footfall such as Norfolk Street Lane, Old Greyfriars Street, and the roof terrace. There will be 5 in total and include only directional information.
19. Having reviewed these details, officers consider that these elements of the public realm have been designed in a sensitive manner which consider the competing demands on the use of the spaces while also creating a pleasing environment which establishes a clear sense of place within the public areas and covered areas so that the centre feels like part of the streets and lanes of Oxford rather than an enclosed shopping centre.
20. A number of matters regarding the public realm are also subject to a S278 agreement with the Oxfordshire County Council Highways Authority. These matters are still being discussed and therefore may result in minor changes to the information, which would not necessarily impact on the principles of the proposals before the committee. Therefore officers would ask that members support the support the submitted details and delegate authority to officers to deal with any minor changes that may occur as a result of this process.

Condition 8: Details of the Lantern for Block 4

21. Condition 8 of the reserved matters permission reads

Within 12 months of commencement of development details of the proposed "lantern" feature to the building have been submitted to and approved in writing by the local planning authority. Only the details as approved shall be incorporated into the building. Amendments to the approved details may be agreed in writing from time to time by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: In the interests of the visual appearance of the locality and the conservation area, part of which the application falls within and adjacent to, in accordance with policies CP1, CP8 and CP9 of the adopted Oxford Local Plan 2001 to 2016.

22. The outline planning permission (13/02557/OUT) and reserved matters (14/02402/RES) approved the basic principle of a tower and glazed lantern in illustrative form at the north-west corner of Block 4. The condition was imposed to allow further work on its final form to be undertaken prior to final approval.
23. The lantern has been designed as a piece of art which would act as a contemporary landmark and 'wayfinder' for the development. The design has taken inspiration from Roger Bacon's studies on optics and light refraction, and also historical window construction in Oxford University Buildings, notably the Codrington Library at All Souls College.
24. The design has evolved from the square form envisaged at reserved matters stage into a Tridecagon or 13 sided cylinder, and would be constructed from a lightweight metal structure with 78 rectangular glass panel inserts. The glass panes would have different finishes graduating from clear to opaque and varying

tones. The lantern would therefore have a multi-faceted geometric form which would create different lighting effects and play of light on the outside of the lantern dependent on the lighting conditions each day. The lantern would have a low level illumination at night to allow the sculpture to glow brighter at the base and diminishing in intensity towards the top.

25. The proposed lantern has been considered by the Oxford Design Review Panel (**appendix 2**) who concluded that it would provide an interesting 21st century addition to the collection of towers and spires throughout the city. The main concern of the panel related to the relationship between the tower and the lantern which in their view should appear as an integral part of the tower and therefore part of the building, or as a piece of art which sits atop a simple tall pedestal.
26. The applicant has taken on board the latter option put forward by the panel in refining the design of the tower and lantern. In doing so the stone coping to the tower has been simplified and the windows within the tower have included similar flashing details to the stone coping. This has provided the tower with a more simple form and thereby the impression that the lantern sculpture sits on a base that takes the form of a square masonry tower. Officers support this approach.
27. The impact of the tower and glass lantern from near, mid, and distant views has already been accepted as part of the outline permission and reserved matters. The design of the lantern is not dissimilar to that shown at the reserved matters stage and therefore it is important to consider how the finalised design will impact upon the viewing experience in terms of the potential for glare and light pollution.
28. The multi-faceted form of the lantern along with the variety of finishes to the glazing will minimise the potential for glare and reflection from the lantern. The scale of the glass panels would be quite small when viewed from distance so as to limit the impact on views. The lantern has been designed to ensure that the visual appearance is not static, but has subtle differences depending on weather conditions and times of the day. If there is any glare then this would be of a short duration so as not to be harmful in views. Although the lantern is visible in views, its degree varies depending on the viewpoints and a minor amount of glare should be difficult to understand with the naked eye, but even if it was visible then this would not necessarily be harmful as it helps to orientate the building in the retail core of the city, which was precisely what the colleges and university sought to do with their domes, towers, and spires.
29. The lantern is intended to be lit at night, but only subtly at the base and decreasing in intensity towards the top. The principle of lighting some of the towers and spires across the city is already established at night, and in many respects celebrated. The lantern is not intended to be a beacon but instead complement the skyline at night and be seen in the context of the adjacent street lighting. The illumination should not be harmful or cause any undue light pollution.
30. In light of the above, officers welcome the work that has been undertaken with respect to the design of the lantern. It is considered that the proposed tower and lighting would achieve the aims outlined at reserved matters stage in terms of

providing some emphasis to the development and signalling the development in longer views in a manner that would complement the historical context of the city. As a result officers would recommend that these details are approved under the terms of the condition.

Condition 21: Details of the Cycle Parking Provision

31. Conditions 21 of the outline planning permission read

Within 12 months of commencement of development, (which to avoid doubt does not include the site preparation works outlined in condition 4 above), details of a scheme of cycle parking, including covered, secure cycle parking for staff employed within the development, shall have been submitted to and approved in writing the local planning authority in consultation with the local highway authority. The cycle parking scheme as approved shall be available for use upon first occupation of the development and retained at all times thereafter.

Reason: To ensure adequate cycle parking is available to serve the development at all times, in accordance with policy TR4 and Appendix 4 of the adopted Oxford Local Plan 2001 to 2016, and policy HP15 of the adopted Sites and Housing Plan 2011 to 2026.

32. The proposed cycle parking arrangements have been developed by the Westgate Oxford Alliance in conjunction with Oxford City Council and Oxfordshire County Council and are set out on the Landscape General Arrangement Plan – Cycle Parking Summary (GIL_PRH_SP_90_SK0100).

33. The Reserved Matters application set a target for 1000 spaces to be achieved across the development. The cycle parking scheme will provide 1034 spaces within the development site and surrounding area as follows:

- 428 spaces throughout the public realm in the application site boundary
- 304 spaces throughout the public realm in close proximity (70m) to the application site boundary
- 184 spaces within the cycle hub in building 3 (providing secure cycle parking)
- 118 secure cycle parking spaces for the apartments in Block 1a

34. The total number of spaces listed above does need to factor in the loss of 88 spaces at the northern end of the site near Bonn Square, which means that the net proposed number of spaces would be 946. The Westgate Oxford Alliance are committed to delivering the reserved matters target of 1000 spaces, and so the remaining spaces will be funded by the alliance and provided by Oxfordshire County Council as part of their on-going cycle provision improvement strategy at locations to be confirmed by the county.

35. With regards to the locations of the cycle parking, the intention was to site these in appropriate locations that are usable and accessible. As such the cycle parking is provided at all the main approach routes to the Westgate development. The main area would be within Greyfriars Place which will include on-street parking and also secure spaces in the cycle hub. The remaining spaces will be placed throughout Speedwell Street and Abbey Place. Additional spaces will also

be provided outside the site boundary at the end of Pike Terrace, Faulkner Street, Speedwell Street, Paradise Square, Paradise Street, Bonn Square, and Pennyfarthing Place. .

36. In terms of staff parking, it is envisaged that the secure store within the cycle hub in Block 2 would provide some secure cycle parking that could be used by staff as well as the public. This was considered the best location for the secure store, rather than seeking to provide individual secure storage within the public realm.
37. The residential accommodation of Block 1a would have a secure storage area for 78 spaces adjacent to Castle Mill Stream. The secure store was approved as part of the reserved matters application. However the alliance has confirmed that the store will employ a double stacking cycle storage system, and the store will be an open plan structure that is supported by dark grey painted galvanised steel posts with light grey vertical polyester powder coated steel louvres.
38. The proposed cycle stands are to be 'furnitubes' college stands in satin steel to reflect the other stands within the city. The County Council have raised a minor concern with respect to the dimensions of the proposed stands which should be a maximum of 800mm above ground, embedded into the ground by a minimum of 250mm, and have a diameter between 50 and 70mm. The proposed stands would be 860mm above ground, 245mm below ground and 38mm in diameter. The standard dimensions are considered important for the usability and security of the cycles and as such an amended plan has been requested for the cycle stands to ensure they meet these standards. The County Council has also suggested that the 4 stands on the north-west corner of the bus priority route are too closely spaced together. Again this is a simple change that can be amended through a simple revision to the plan
39. Having reviewed the submitted details, the cycle parking has been developed in conjunction with both the city and county council and would be provided in the suitable locations throughout the public realm, and include a number of enclosed secure public accessible spaces in the cycle hub and secure private spaces for the residents of Block 1A. The proposed cycle parking would be supported by officers.

Condition 22: Details of the Additional Cycling Facilities

40. Conditions 22 of the outline planning permission read

The development hereby permitted shall also include a scheme of additional cycling facilities which shall include secure storage facilities. Within 12 months of commencement of development details of the proposed scheme shall have been submitted to and approved in writing by the local planning authority, and shall be provided upon first occupation of the development. Amendments to the scheme may be agreed in writing from time to time by the local planning authority.

Reason: To ensure adequate cycle facilities are available to serve the development at all times, in accordance with policy TR4 and Appendix 4 of the adopted Oxford Local Plan 2001 to 2016.

41. The proposal includes an operated secure cycle parking facility within Building 3 fronting Old Greyfriars Street. The facility is shown on drawing no.BDP_MP_B3_101 and includes the cycle store and adjacent commercial unit which would provide the cycle hub. It was anticipated that the store would provide between 150 and 200 spaces, although the final quantum cannot be fixed until such time as an operator for the cycle hub has been secured. The Westgate Oxford Alliance has indicated that they will seek to provide 184 spaces within this building, but if this is not achieved then any shortfall would be secured through discussions with Oxfordshire County council for alternative off-site locations.
42. The operator for the cycle hub is not known at present, but the submitted details states that the opening hours for the hub will reflect the normal trading hours of the Westgate centre and be open seven days a week. It is also likely to include a cycle maintenance facility which will be discussed as part of the negotiations for an operator.
43. Having reviewed the submitted details, officers are satisfied that the proposal will provide a suitable on-site secure cycle parking facility which will be available for use during the trading hours of the Westgate. The layout would be appropriate and provide sufficient space to access the cycle storage and that as a managed secure facility it is likely that this will be used appropriately. As such officers would recommend the approval of these details under the terms of the condition.

Condition 6: Amendment to landscaping in Greyfriars Place

44. Condition 6 of the reserved matters permission reads as follows

Notwithstanding the approved landscaping indicated on planting plan drawing OX5004 GIL L (20) RM PR 110 Rev. A, further details of the specification and location of proposed landscaping species at Abbey Place and the proposed Greyfriar's Place shall be submitted to and approved in writing by the local planning authority, and the landscaping implemented in accordance with the requirements of condition 9 of outline planning permission 13/02557/OUT. Amendments to the approved details may be agreed in writing from time to time by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: In the interests of the visual appearance of the locality and the conservation area, part of which the application falls within and adjacent to, in accordance with policies CP1, CP11, NE15 and NE16 of the adopted Oxford Local Plan 2001 to 2016.

45. The West Area Planning Committee approved the landscaping details submitted under condition 6 of the reserved matters permission in March 2015. These details included the landscaping proposals for Greyfriars Place.
46. Following a review of the archaeological information from the works undertaken, and consultation with officers and Oxford Preservation Trust a number of changes have been made to the landscaping design within Greyfriars Place. This

includes the provision of a large single-plane maker tree (tulip tree) in place of 6 smaller trees in addition to the retention of the existing wild cherry tree; a raised area in the centre of the space to provide greater interest, allow tree planting above the below ground attenuation tanks, and more seating capacity.

47. The amendments would be minor in nature and would simplify the space enabling it to be put to better use while also responding to the overall constraints that have been informed through the construction process (i.e. archaeology and attenuation tanks). Officers would support the amendments.

Condition 17: Amendments to the southern elevation of Building 4

48. Condition 17 of reserved matters permission reads as follows

Notwithstanding the approved drawings appended to this notice of permission, and if required by the local planning authority, within 12 months of commencement of development amended and / or additional elevational details of the following shall be submitted to and approved in writing by the local planning authority:

*-the proposed eastern elevation to Building 3;
-the southern elevation of existing Building 4 facing the public square west of Turn Again Lane; and
-the eastern entrance to Building 4 where it faces Pennyfarthing Place.
The development shall only be carried out in accordance with the approved details.*

Reason: In the interests of the visual appearance of the locality and the conservation area, part of which the application falls within and adjacent to, in accordance with policies CP1, CP8 and CP9 of the adopted Oxford Local Plan 2001 to 2016.

49. The West Area Planning Committee approved the details required by condition 17 of the reserved matters permission in March 2015. These included the elevational treatment for the southern elevation of Building 4.

50. The detailed design process for the structural works to Building 4 has identified that external bracing will be required on the Greyfriars Place façade adjacent to the service yard entrance. The bracing had the potential to provide a visible step in the Greyfriars Place façade, and therefore in order to reduce the visual impact of this step the bracing has been enclosed in a section of rendered wall that would create a portal around the service yard entrance. The extent of the climbing foliage that was proposed for this wall would then be pulled back in line with the protruding rendered wall.

51. Having reviewed the submitted details officers consider that the proposed changes would represent a minor amendment to the treatment of the southern elevation of Block 4. The creation of a portal around the service entrance which includes the structural bracing would be a neat design solution that enables the bracing to read as part of the built form of Block 4 and provide a feature to the service entrance and along with the retention of the climbing foliage would not

have an adverse impact upon the visual quality and sense of place intended for Greyfriars Place or undermine its performance in functional terms. Therefore officers would support the proposed amendments.

Conclusion:

52. This report has sought to provide more detail of the matters requested by the committee with respect to the features of the public realm for the development; the lantern feature for building 4; the proposed cycle parking and cycle facilities for the development; along with amendments to the landscaping in Greyfriars Place and elevational treatments to the south side of building 4. Having reviewed these details, officers consider that the details provide a sufficient level of detail consistent with the principles approved within the outline and reserved matters provision which established the framework to deliver a high quality development with high quality and robust public. The details would accord with the aims of the National Planning Policy Framework and the relevant policies of the Oxford Core Strategy 2026, Oxford Local Plan 2001-2016, and West End Area Action Plan

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

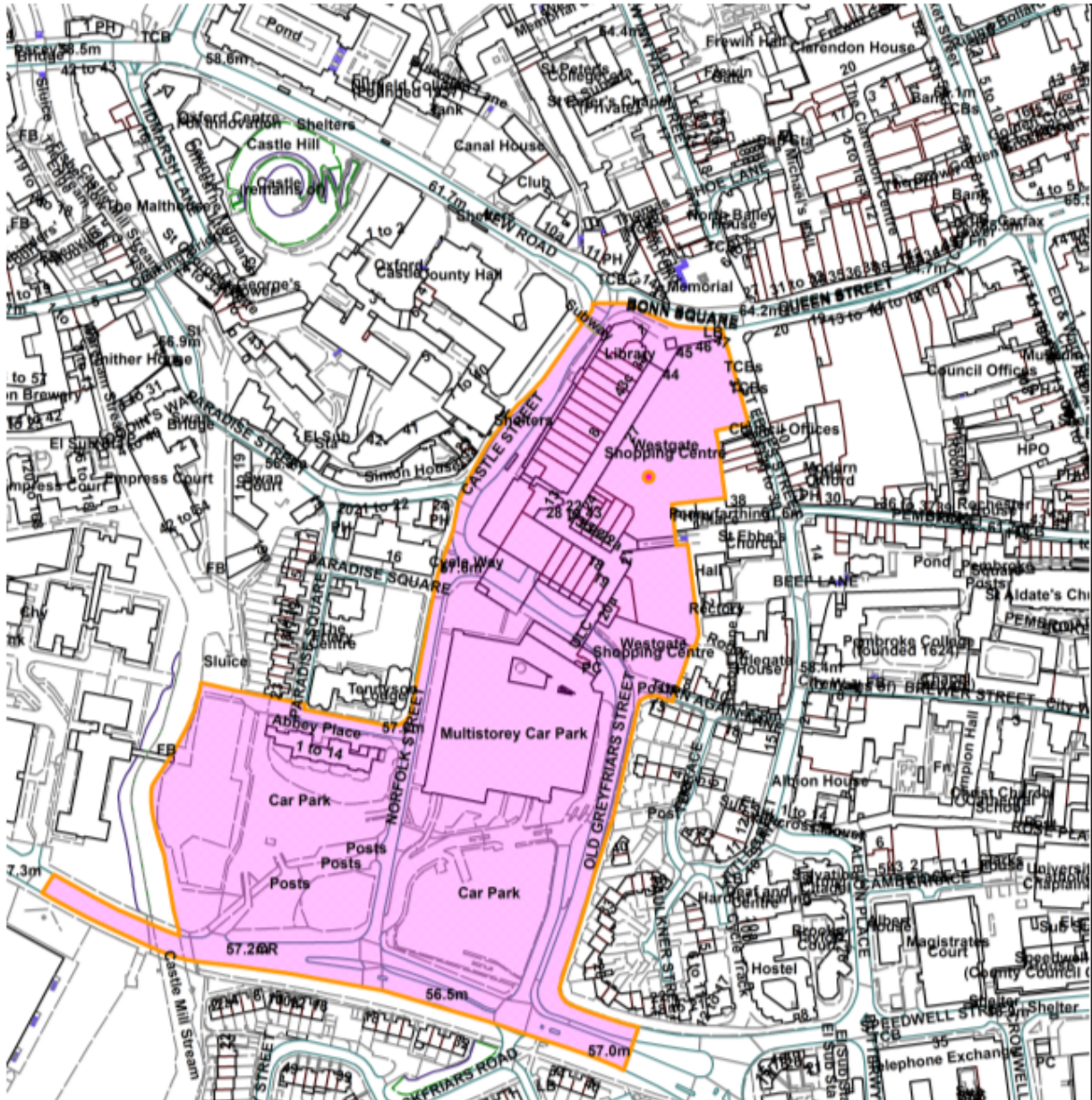
Contact Officer: Andrew Murdoch

Extension: 2228

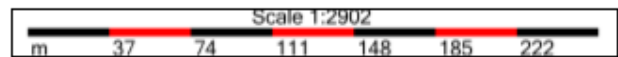
Date: 23rd December 2015

Appendix 1

Westgate Development



1:2901



Organisation	Oxford City Council
Department	City Development
Comments	Not Set
Date	22 December 2015
SLA Number	100019348

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06 July 2015

Sara Fuge
Westgate Oxford Alliance
Land Securities
5 Strand
London
WC2N 5AF

Our reference: DCC/0589

Oxford City Council: Westgate Shopping Centre Lantern

Dear Sara,

Thank you for presenting to the ODRP meeting on 25 June 2015. The client's commitment to developing a well-designed new shopping centre for Oxford that matches the city's international reputation and outstanding architectural heritage is commendable. We find much to admire in this proposal for a piece of art that complements the building. The vertical element is an interesting addition to the skyline and we find the glass object intriguing. However, the relationship between the piece of art and the tower on which it rests appears somewhat unresolved and requires further clarification to create a compelling whole that will engage people and become a long-lasting, cherished adornment of Oxford.

Impact on the Oxford skyline

Oxford has evolved over centuries with a multitude of magnificent towers and spires adding to the richness of the skyline, and the proposed glass lantern has the potential to become a delightful 21st century contribution. The verified views prove useful to demonstrate how the lantern's height, as defined by the parameters of the outline application, fits into the townscape as a secondary element and that it relates well to its neighbours. It strikes an interesting balance between being a beacon that marks the shopping centre, particularly at night, and blending in seamlessly. It will be important to develop the wider arts strategy and signage for the shopping centre in such a way that they complement the lantern and have a compelling narrative.

The glass object

The idea of a glass object on top of the shopping centre that captures and reflects sunlight and sends out rays of light at night is compelling. We are impressed by the thinking that has informed this piece of art and the precision with which it is executed. The simplicity of the design depends on a flawless presentation on top of the building and immaculate detailing. We would like to suggest exploring further options in terms of height and width of both the object itself and the glass panels. Currently, the proposed object appears somewhat out of tune with its context, for example the proportions of the tower on which it will sit and the size of the existing windows surrounding it. It will also



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be beneficial to reassess the possibility of glare and glint and the impact on pedestrians. We also ask the client and design team to bear in mind that the use of the lantern may be altered in the future, for example adding different types of lighting, colour or laser beams, and the design needs to be robust enough to deal with these modifications. While the glass curtain covering the oculus is intriguing, it does not relate to the lantern, and we suggest considering a design that establishes a closer bond between the two elements.

Lantern and tower

The relationship of the lantern and the tower seems to be the least successful part of the project. While the previous cubic iteration of the glass object appeared to grow from the rectangular tower in a convincing manner, the two elements now seem somewhat disconnected. It is unclear whether the lantern wants to be part of the building or whether it is presented as a piece of art on top of a tall pedestal. The former would require a single composition and a strong link between the lantern and the building, for example by giving it a function that is related to the spaces below. To make it a plinth for this piece of art, we would wish to see a tower design that responds in a subtle and minimalist way to the precision and simplicity of the proposed lantern. We suggest looking at the lantern and tower as a whole and revisiting the proportions, the ratio between solid and glass, the junction between the two elements and the detailing of the prosaic parts, eaves and flashing, for example, to match the quality of the other towers and spires of Oxford.

Thank you for consulting us and please keep us informed of the progress of the scheme. If there is any point that requires clarification, please telephone us.

Yours sincerely



Victoria Lee
Cabe Advisor, Design Council
Email Victoria.lee@designcouncil.org.uk
Tel +44(0)20 7420 5244

cc (by email only)

Sara Fuge	Westgate Oxford Alliance
Neil Read	Westgate Oxford Alliance
Jon Bowen	Turfey
Peter Coleman	BDP
Kathryn Onomakpome	BDP

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Daniela Schönbacher	Glass Artist
Jeremy Dixon	Dixon Jones
Michael Trigg	Dixon Jones
Murray Hancock	Oxford City Council
Nick Worledge	Oxford City Council
David Edwards	Oxford City Council
David Brock	English Heritage

Review process

Following a site visit and discussions with the design team and local authority, the scheme was reviewed on 25 June 2015 by Fred Manson (chair), Eddie Booth, Jessica Bryne-Daniel, Jon Rowland, and Sarah Wigglesworth. These comments supersede any views we may have expressed previously.

Confidentiality

Since the scheme is not yet the subject of a planning application, the advice contained in this letter is offered in confidence, on condition that we are kept informed of the progress of the project, including when it becomes the subject of a planning application. We reserve the right to make our views known should the views contained in this letter be made public in whole or in part (either accurately or inaccurately). If you do not require our views to be kept confidential, please write to designreview@designcouncil.org.uk.



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West Area Planning Committee

5th January 2016

Application Number: 15/03189/FUL

Decision Due by: 28th December 2015

Proposal: Demolition of existing electrical substation. Erection of 2 x 3-bed semi-detached dwellinghouses (Use Class C3). Provision of private amenity space, bin and cycle store and parking for 4No. vehicles.

Site Address: Electricity Sub Station Adjacent 299C Iffley Road Oxford Oxfordshire

Ward: Iffley Fields Ward

Agent: Bidwells LLP

Applicant: SSE Plc

Application Called in – by Councillors Tanner, Pressel and Price for the following reasons – Concerns about access arrangements

Recommendation:

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

For the following reasons:

- 1 The proposed two dwellings are acceptable in terms of their design, siting, layout and appearance. It is considered that the proposed development would provide an acceptable quality of accommodation, including the provision of outdoor amenity space, bicycle storage and screened refuse and recycling provision. The proposed development would make better use of an existing redundant site and therefore represents the opportunity to make more efficient use of land, a principle supported by Policy CP6 of the Oxford Local Plan 2001-2016. It is considered that the proposed development would not have a detrimental impact on the amenity of surrounding residential occupiers and would not have an adverse impact on highway safety. Adequate measures dealing with surface water drainage and biodiversity can be addressed by condition. On this basis the development is acceptable in the context of Policy CP1, CP6, CP8, CP10 and CP11 of the Oxford Local Plan 2001-2016, Policy CS2, CS11, CS12, CS17, CS18 and CS23 of the Core Strategy (2011) and Policies HP2, HP9, HP12, HP13, HP14, HP15 and HP16 of the Sites and Housing Plan (2013) subject to the conditions set out below.
- 2 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.

- 3 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.

Conditions

- 1 Development begun within time limit
- 2 Develop in accordance with approved plans
- 3 Materials
- 4 Design - no additions to dwelling
- 5 Surface water management
- 6 Cycle Stores
- 7 Landscaping
- 8 Parking area
- 9 Obscure Glazing
- 10 No side windows
- 11 Boundary treatments
- 12 Contaminated land condition
- 13 No access to Boundary Brook Road
- 14 Biodiversity

Principal Planning Policies: Oxford Local Plan 2001-2016

CP1 - Development Proposals

CP6 - Efficient Use of Land & Density

CP8 - Design Development to Relate to its Context

CP10 - Siting Development to Meet Functional Needs

CP11 - Landscape Design

Core Strategy

CS2_ - Previously developed and greenfield land

CS9_ - Energy and natural resources

CS10_ - Waste and recycling

CS11_ - Flooding

CS12_ - Biodiversity

CS17_ - Infrastructure and developer contributions

CS18_ - Urban design, town character, historic environments

CS23_ - Mix of housing

Sites and Housing Plan

- HP2_ - Accessible and Adaptable Homes
- HP9_ - Design, Character and Context
- HP11_ - Low Carbon Homes
- HP12_ - Indoor Space
- HP13_ - Outdoor Space
- HP14_ - Privacy and Daylight
- HP15_ - Residential cycle parking
- HP16_ - Residential car parking

Other Material Considerations:

National Planning Policy Framework
Planning Practice Guidance

Public Consultation

Statutory Consultees Etc.

Highways: Objections, insufficient evidence to show that four vehicles could park in the proposed parking area and manoeuvre. Visibility splays?

Third Parties

303 Iffley Road, Objections:

- Loss of privacy
- Impact on character
- Noise and disturbance
- Impact on car parking
- Impact on light

1 Boundary Brook Road, Comments:

- Concern that no vehicle access should be provided onto Boundary Brook Road.
- Concern that no vegetation should be lost at rear

Relevant Site History:

None

Site Description

The application site encompasses an existing electricity substation situated on a cul-de-sac off of Iffley Road, the cul-de-sac serves a small close of properties (299a-299c Iffley Road) that lie to the rear of 299 Iffley Road. To the south of the application site is 303 Iffley Road. To the immediate east of the application site is a verge and driveway that serves 2 Howard Street opening out onto Boundary Brook Road.

The existing site currently contains vegetation and a brick sub-station building; the building appears to date from the first half of the 20th Century. There is an existing access onto the site, with a dropped kerb and gates (though during the Officer's site visit this did not appear to be regularly used). The application site area is approximately 0.1ha in size.

The surrounding area has a residential character, with mainly two storey dwelling-

houses in the immediate vicinity of the application site. Although the 1930s houses to the south of the application site have large gardens the adjacent properties in the cul-de-sac have shorter gardens of approximately 7m.

There are a variety of building materials used in the vicinity of the application site, including brick and render for walls and plain concrete tiles for roofs. The neighbouring properties to the north of the application site (299a-299c Iffley Road) are constructed from pale bricks with tiled roofs.

The application site is not within a conservation area.

Proposed Development

It is proposed to erect a pair of semi-detached two three bedroom dwelling-houses. The proposed dwellings would be set back from the existing dropped kerb access by approximately 6m and extend back into the plot 8.5m, aligned so that they are facing towards Iffley Road at the same orientation as No. 303 Iffley Road. The two dwellings would be staggered so that the southerly of the two dwellings would be 2m forward of the other proposed house. The proposed dwellings would two storey with a loft conversion, providing accommodation over three floors. A small single storey element is proposed at the front that would be used as a ground floor WC.

The proposed dwellings have an identical internal layout.

The front elevations of the proposed dwellings include triangular shaped projecting windows at the first floor level. One half of each of the windows, the halves facing towards 303 Iffley Road would be obscure glazed.

Each dwelling is proposed to have a small front garden with a shared parking area in front; extending out along the cul-de-sac towards Iffley Road. The proposed parking area would provide car parking for four cars, with a tandem parking area. The proposed parking area would be accessed using the existing dropped kerb and access. Each of the proposed dwellings would benefit from a rear garden, the rear gardens would be approximately 7m and 5m in length respectively.

The dwellings are proposed to be constructed from brick and render, with a concrete tiled roof.

Issues:

Officers have identified the following key issues relevant to the determination of this application:

- Principle of development
- Design
- Living conditions
- Impact on neighbours
- Trees
- Access and car parking
- Flooding and surface water drainage
- Biodiversity

Officers Assessment:

Principle of Development

Principle of Development

1. The application site is considered to be previously developed land; being currently occupied by a redundant substation. Policy CS2 of the Core Strategy, together with the NPPF requires that the majority of new development will take place on previously developed land; particularly in sustainable locations. Officers consider that on this basis, the proposed development is acceptable in principle.
2. In addition to the above, Officers have been mindful of the provisions of Policy CP6 of the Oxford Local Plan 2001-2016 which seeks to encourage the greater efficiency of land use, subject to design and other considerations. In this case, the proposed development would make a more efficient use of an existing site and this provides greater support for the principle of development in this location.

Balance of Dwellings

3. The proposed development relates to the erection of two units which falls below the threshold identified in the Balance of Dwellings where a specific mix of dwellings is required.

Design

Existing Building

4. The existing building on the site is proposed to be demolished. The existing building is a single storey brick building. Despite its utility purpose, the materials used in its construction and the design of the building are surprisingly high quality. The design interest of the building stems from its appearance which has hall marks of a building that dates from the 1920s or 1930s; substations of this design can be found throughout Oxford (including an identical example on Garsington Road in Cowley). Despite the elements of the building which are of interest, the building is redundant and Officers recommend that the demolition of the building would be acceptable.

Impact on Street scene

5. Officers consider that the proposed siting of the development within the plot and relative to surrounding residential properties means that it would form an appropriate relationship within the street scene. The proposal to stagger the properties relative to the road would decrease their overall bulk and prominence in the street scene. Mature vegetation to the rear of the site would partially screen the development from Boundary Brook Road.

Materials

6. Further to the above, Officers consider that the proposed material, which

include a pallet of materials that are similar to surrounding properties are likely to be acceptable and allow the proposed development to harmonise effectively with the surrounding built environment. Despite this, a condition has been included in the recommendation to ensure that the exact types of materials used are submitted to the Council for approval prior to the commencement of the development.

Height of Buildings

7. The proposed dwellings would have a similar overall height to the adjacent properties within the cul-de-sac and would be slightly lower than the adjacent house on Iffley Road (No. 303 Iffley Road).

Living Conditions

Size of Dwellings

8. The proposed dwellings would have an approximate internal floor area of approximately 85m², which would be acceptable for a family dwelling in the context of Policy HP12 of the Sites and Housing Plan (2013). In reaching this view, Officers have also been mindful of the quality of internal floor area proposed, which includes sufficient light and ventilation from windows. The windows serving the first floor bedrooms at the front of the dwellings have sections of obscure glass but also have transparent glass such that these rooms would have access to light and ventilation.

Lifetime Homes Standards

9. It is a requirement of Policy HP2 of the Sites and Housing Plan (2013) that new dwellings meet the requirements of Lifetime Homes Standards. Officers consider that the proposed new dwellings would meet many of the requirements of Lifetime Homes Standards, particularly relating to the internal layout of the properties which have a simple internal layout that would make them more accessible. There is also proposed to be parking that would be near to the entrances to the dwellings and a ground floor WC that would make the properties more suitable for occupiers with reduced mobility.

Renewable Energy and Low Carbon Homes

10. No information has been provided in relation to low carbon homes or renewable energy measures. The proposed development falls below the threshold identified in Policy HP11 of the Site and Housing Plan (2013) where there is a specific requirement for on-site generation.

Outdoor Space

11. Officers consider that the proposed rear gardens for the dwellings would be acceptable in terms of their overall size. The proposed gardens are shorter than would normally be acceptable in general urban design terms but there are not properties to the rear of the application site which would impact upon the privacy of the proposed rear gardens. Additionally, the shorter length garden of the northern most dwelling (which is only 5m in length) has a wider garden (9m at its widest point) which would overcome

some of the deficiency in the length of the garden. Officers are also minded to consider that the proposed front garden would provide some outdoor amenity benefit for the occupiers of the proposed dwellings. In summary, Officers consider that the proposed amenity spaces would enable the development to meet the requirements of Policy HP13 of the Sites and Housing Plan (2013).

12. Officers have been mindful of the amount of outdoor amenity space that has been proposed. Officers consider that if extensions were made to the proposed dwelling-houses then this could result in a deficiency in amenity space which would not be acceptable. It is also considered that given the constrained nature of the site, other extensions may have an adverse impact in terms of the visual appearance of the dwellings and on the amenity of neighbouring properties. As a result, a condition has been included with the recommendation that would remove permitted development rights (relating to extensions, porches, outbuildings, dormers and rooflights).

Boundary Treatments

13. Officers have recommended including a condition to require the submission of boundary treatment details prior to the commencement of the proposed development to ensure that the rear garden amenity spaces are sufficiently private.

Impact on Neighbours

Impact on Privacy

14. Officers consider that the proposed development would not have an adverse impact on the amenity of neighbouring residential occupiers. Despite the short length of the gardens, there would be no overlooking from the rear windows of the upper floors of the proposed dwellings into the garden of surrounding occupiers; there are no existing properties to the immediate rear of the application site (only a driveway and Boundary Brook Road).
15. The proposed first floor windows at the front of the dwellings would otherwise provide some overlooking into No. 303 Iffley Road but the design of the windows, which form a triangular shape on plan, with panes of glass facing out at 45 degree angles away from the plane of the front of the house, address the potential overlooking. The proposed panes of glass forming one half of each of those windows and facing towards No. 303 Iffley Road would be obscure glazed. Officers have recommended that a condition be included to ensure that these windows remain obscure glazed and are non-opening below a height of 1.7m when measured from the finished floor level.
16. There are no side windows proposed on the dwelling-houses; a condition has been included to ensure that there would be no additional side windows that could be installed as permitted development.

Impact on Light

17. Officers have considered the impact of the proposed development on light conditions for surrounding properties. The nearest dwellings to the proposed development would be No.s 303 and 299c Iffley Road.
18. In relation to No. 303 Iffley Road, the proposed development would be situated behind the rear of that property and approximately 11m from that dwelling. This distance would ensure that the rear windows of No. 299c Iffley Road would not be overshadowed by the proposed two storey dwellings. Additionally, the proposed dwellings would be to the north of 299c Iffley Road which would further reduce the impact on light, particularly on the garden of that property.
19. No. 299c Iffley Road lies in close proximity to the proposed dwellings. Despite being orientated at an angle to that property, the proposed dwellings would relate well to the house in terms of ensuring that there would be no impact on light to the dwelling. The proposed dwellings would extend only 1m beyond the rear elevation of No. 299c Iffley Road and are set back behind the front of the property. The result is that there would be no loss of light to the front or rear elevations of 299c Iffley Road from the presence of the new dwellings. There are no windows on the side elevation of 299c Iffley Road.

Visual Impact

20. Officers have been mindful of the visual intrusion of the proposed development, particularly when viewed from No. 303 Iffley Road. The current building on the site is a single storey building and therefore has a very limited presence when viewed from neighbouring rear gardens. Officers consider that the proposed design of the development coupled with its siting within the plot and orientation of the dwellings reduce their visual impact. Officers have also included a condition in the recommendation to ensure that some landscaping is provided to further soften the impact of the proposed development.

Trees and Landscaping

Existing Vegetation

21. There is existing vegetation around the edge of the site, most of this vegetation lies outside of the application site but would contribute towards partially screening the development.
22. None of the trees on the application site are protected.

Landscaping

23. As previously suggested, Officers have recommended condition that would require landscaping to be provided by condition. It is recommended that this should address two key aspects of the proposed development. Firstly, it should ensure that the appearance of the development is softened when viewed from neighboring properties and the street scene. Also, landscaping should provide a border to the front of the site, specifically around the car

parking area to ensure that the front aspect of the development contributes positively to the street scene.

Access and Parking

Access

24. It is proposed to make use of the existing access onto the site. This would be acceptable as it opens onto the cul-de-sac where there would be very low vehicle speeds.

25. There are no proposals to create a new vehicular access from the application site onto Boundary Brook Road. However, Officers have been mindful that this could work could be carried out as permitted development in the future if the occupiers of the dwelling-houses were minded to create a new access. As a result, Officers have recommended a condition be included that would remove the permitted development right for creating new accesses (Part 2, Class B of the GPDO).

Parking

26. It is proposed to provide car parking at the front of the application site. Four car parking spaces are proposed that would provide two spaces for each dwelling. This would meet the required parking provision for the dwellings as set out in Policy HP16 of the Sites and Housing Plan.

Cycle Storage

27. Cycle stores are proposed in the rear gardens of the proposed dwellings. The stores would be covered and secure, providing sufficient cycle storage for occupiers of the dwelling-houses. There are side accesses to the rear gardens included in the site plan which would enable a bicycle to be taken to the stores from the highway without going through the house. Officers have recommended a condition that would require the cycle stores to be provided prior to first occupation. The proposed cycle stores would also provide an area where refuse and recycling bins would be screened.

Flooding and surface water drainage

Flooding

28. The application site does not lie in area of high flood risk as defined by the environment agency flood maps.

29. Despite not being in an area of high fluvial flood risk, the application site does lie in area of defined surface water flood risk. This is addressed below.

Surface Water Drainage

30. No details have been provided in relation to the surface water drainage of the proposed development. Despite this, Officers have considered that there is adequate space on the site to provide adequate surface water management. Officers have recommended that a condition be included that would ensure that there would be the provision of drains and soakaways on the site to deal with surface water; additionally the proposed parking area will be required to be constructed of a permeable material or drain onto permeable land within the application site in order that the development meets the requirements of

SUDs and Policy CS11 of the Core Strategy (2011).

Biodiversity

31. No details have been provided of biodiversity enhancement measures. Officers consider that there would be an opportunity to increase the biodiversity of the locality by requiring enhancement measures to be provided by condition, this has been included in the recommendation.

Conclusion:

32. On the basis of the above, Officers recommend that members approve the development subject to the conditions as included in the report above.

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:

15/03189/FUL

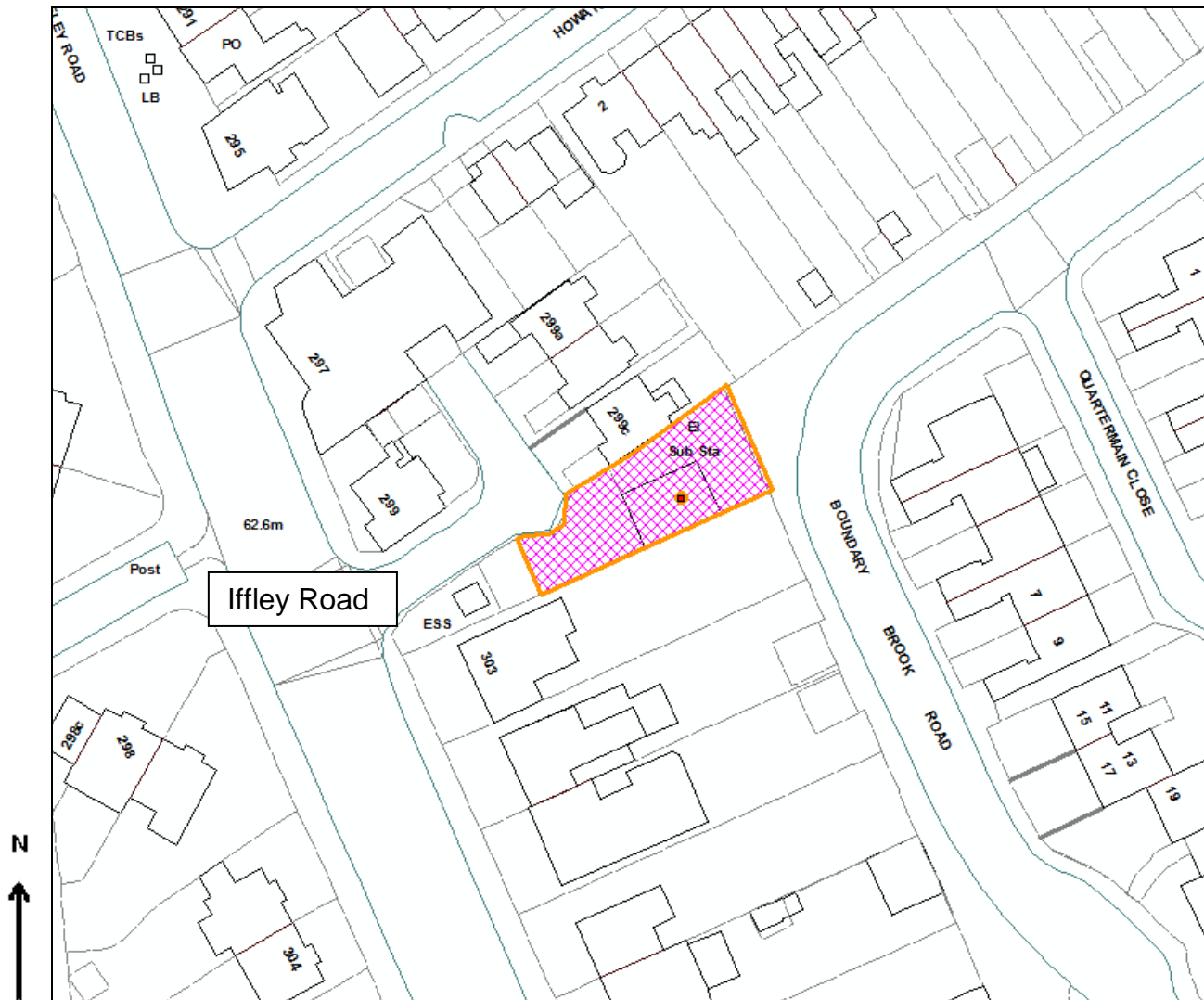
Contact Officer: Robert Fowler

Extension: 2104

Date: 16th December 2015

Appendix 1

15/03189/FUL - Electricity Sub Station Adjacent 299C



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Ordnance Survey 100019348

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West Area Planning Committee

5th January 2016

Application Number: 15/03105/FUL

Decision Due by: 26th January 2016

Proposal: Erection of 2 storey extension together with rear extensions at levels D, E and F, new entrance, lay-bys and nitrogen tank.

Site Address: Tinbergen Building South Parks Road Oxford Oxfordshire

Ward: Holywell Ward

Agent: Mr Robert Linnell

Applicant: The Chancellor, Masters
And Scholars Of The
University

Recommendation:

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

Reasons for Approval

- 1 The proposed two storey extension, erection and replacement of the pods, improvements and alterations to the entrance, provision of two lay-bys, nitrogen tank and internal alterations are considered acceptable in terms of their design, appearance, and impact on street scene. The proposed development would not have an adverse impact on highway safety and adequate provision is provided for cyclists and pedestrians within the site. The development would not harm the setting of the nearby Central (University and City) Conservation Area. The proposed development would not have a detrimental impact on biodiversity, specifically the habitats of protected species. The proposals include provision of on-site energy generation by renewables. In reaching a decision to approve the development, all responses to the proposed development have been carefully considered. For these reasons the development is considered to be acceptable in the context of Policy SP58 of the Sites and Housing Plan (2013), Policies CS9, CS10, CS12, CS18 and CS29 of the Core Strategy (2011) and Policies CP1, CP6, CP8, CP9, CP11, CP22, TR4, TR12, HE9 and HE7 of the Oxford Local Plan 2001-2016.
- 2 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.

- 3 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.

Conditions

- 1 Development begun within time limit
- 2 Develop in accordance with approved plans
- 3 Materials as specified
- 4 Landscape plan required
- 5 Landscape hard surface design - tree roots
- 6 Landscape underground services - tree roots
- 7 Tree Protection Plan (TPP) 2
- 8 Arboricultural Method Statement (AMS) 1
- 9 Biodiversity Enhancements
- 10 Cycle parking
- 11 No external lighting
- 12 Plant Design
- 13 Flue and External Staircases
- 14 PD Rights - Part 2, Class C
- 15 Enclosure of Nitrogen Tank
- 16 Noise
- 17 Energy Measures
- 18 Archaeology
- 19 Repeat Ecology survey (within 12 months)
- 20 No vegetation clearance (March-August)

Principal Planning Policies:

Oxford Local Plan 2001-2016

CP1 - Development Proposals

CP6 - Efficient Use of Land & Density

CP8 - Design Development to Relate to its Context

CP10 - Siting Development to Meet Functional Needs

CP11 - Landscape Design

CP13 - Accessibility

CP18 - Natural Resource Impact Analysis

CP19 - Nuisance

CP20 - Lighting

CP21 - Noise

TR12 - Private Non-Residential Parking

TR3 - Car Parking Standards

TR4 - Pedestrian & Cycle Facilities

HE7 - Conservation Areas

HE9 - High Building Areas
HE10 - View Cones of Oxford
HE2 - Archaeology
CP9 - Creating Successful New Places
NE15 - Loss of Trees and Hedgerows

Core Strategy

CS2 - Previously developed and greenfield land
CS9 - Energy and natural resources
CS10 - Waste and recycling
CS11 - Flooding
CS12 - Biodiversity
CS17 - Infrastructure and developer contributions
CS18 - Urban design, town character, historic environment
CS29 - The universities

Sites and Housing Plan

SP58 – Oxford University Science Area & Keble Road Triangle

Other Planning Documents

Oxford University Masterplan
Assessment of the Oxford View Cones

Relevant Site History

- 15/01986/DEM - Application to determine whether prior approval is required for the method of demolition – Prior approval not required

Representations Received

44 Beauchamp Place, Objections:

- Effect on character of the area
- Heritage value of building
- Impact on conservation area
- Cultural importance of building
- Concerns about function of building
- Loss of views (particularly from the building's outdoor areas)
- Inadequate cycle parking provision

Statutory Consultees

- Highways Authority

No objections, subject to the satisfactory submission of a S278 agreement relating to the provision of the proposed laybys and the Local Planning Authority being satisfied with the cycle parking provision.

- Thames Water Utilities Limited

No objections

Site Description

Location

1. The Tinbergen Building is a large five storey building situated on the corner of South Parks Road and St Cross Road; within the University of Oxford's science area to the north-east of the City Centre.
2. To the south-west of the application site lies the Pharmacology Building, with the Peter Medawar Building for Pathogen Research lying to the immediate west of the site. North of the application site, beyond South Parks Road lies the entrance to University Parks and the path leading to the Marston Cycle Route. To the east of the application site is Linacre College and college sports grounds. The University Club is south of the application site with a large area sports grounds associated with the club immediately to the south of the application site boundary.

Use of Building

3. The Tinbergen Building is principally used for teaching and research by the Departments of Zoology, Experimental Psychology and Biochemistry. The current use of the building is therefore regarded to be a non-residential institution (Use Class D1). The application site encompasses the entire of the Tinbergen Building which fills almost the entire site.

History of Building

4. The Tinbergen Building has a distinctive appearance, the building was completed in 1970 and is an example of Brutalist architecture. The Tinbergen Building was designed by Sir Leslie Martin, a renowned architect who also designed the nearby St Cross Building.
5. The Tinbergen Building is named after Nikolaas Tinbergen a joint recipient of the 1973 Nobel Prize for Physiology or Medicine; his Nobel prize winning research concerned the organisation and elicitation of individual and social behaviour patterns in animals.

Existing Form, Layout and Design

6. The form and layout of the building is complex and distinctive but highly relevant to the consideration of the application (which relates to several elements of the existing structure and site). There are two full height elements that are centred around a central servicing area, these run parallel with South Parks Road (and perpendicular to St Cross Road). Extending to the north-west and south east of these central blocks are three symmetrical wings, these run parallel with St Cross Road. The symmetrical wings have a distinctive stepped form such that they are lowest on the north-west elevation (South Parks Road) and south-east elevation (adjacent to the University Club Sports Ground); they also have a uniform square appearance such that they appear as a series of stepped blocks. The resultant form of the existing building means that despite a large bulk of development it is broken up into a complex series of blocks that reduces its monolithic mass.

7. The main entrance to the building is on South Parks Road and is set back from the road and rest of the building; as a result the main entrance is not particularly prominent in the street scene. A walkway at first floor level connects two of the blocks above the walkway, this was installed as a later addition for fire safety reasons. There is an existing ginko tree close to the main entrance door; though as a result of being within the set back entrance area it is not visible in the wider street scene.
8. In the centre of the building is a recessed courtyard area with steps running down to the University Club Sports Ground on the south west elevation. This area of the site was used until very recently as storage and contained a number of small buildings that have recently been demolished.
9. There are existing paths around the side of the building that provide access to entrances within the central part of the building and provide access to courtyards with some cycle parking. The majority of cycle parking is at the front of the building and is located underneath the canopy on the frontage of South Parks Road.
10. Since the completion of the building in 1971 there have been two periods of successive roof extensions involving the development of 'pods'. These have been roof extensions to the block like roof elements of the Tinbergen Building to provide additional space within the building. The first pods constructed on the building were built between 1991 and 1994 and have a mansard type appearance and are clad in zinc; they are also characterised by providing very few windows. There are three of these 'older style' pods on the north-west elevation (South Parks Road) and one in the south-west corner of the site. There are also newer type pods on the south, west and east elevation. These were installed in 2004 and have a more rectangular appearance that harmonises with the built form of the original building; they are finished in aluminium.
11. The roof of the existing building is flat with parapet walls. There are three large vertical elements that project beyond the roof, these house lifts.

Materials

12. The entire building is constructed from poured and pre-cast concrete; with only the pods having a different external finish (zinc and aluminium as outlined above). The facades of the building have a distinctive pattern of ribbon windows which have been continued in the case of the newer type pods.

Car Parking

13. There is an existing basement level with a ramp access onto St Cross Road. This area provides limited car parking for the building. This also serves as the main servicing area for the building. There are currently 38 car parking spaces on site.

Proposed Development

14. It is proposed to erect a two storey extension to the south-west of the existing building (towards the University Club Sports Ground), add seven new pod roof extensions, replace four existing pod roof extensions, renovate and remodel the existing main entrance, install a nitrogen tank, plant and equipment (associated with the new development and existing operations) and carry out substantial internal and external refurbishments. The main individual aspects of the proposals are set out in more detail below.

Two Storey Extension

15. The largest new aspect of the development proposed is a two storey extension that would be located adjacent to the south-west boundary of the site; adjacent and connected to the existing Tinbergen Building. The proposed extension would be 62m in width and 12m in depth; extending across the entire rear wall of the Tinbergen Building. The proposed extension would link into the Tinbergen Building with a link section of approximately 3.2m depth (to afford greater light into the existing building and lobby areas). The proposed extension would have an overall height of approximately 10m, with a flat roof.
16. The built form of the proposed extension has been carefully considered. The main south-west façade of the extension would emulate the 'bar' type feature (the full two storey height rectangular section) behind it. It is also proposed to be broken into five distinct blocks, with one of the blocks being entirely open, framing the staircase leading to the courtyard at the centre of the Tinbergen Building. The upper quarter of the façade would be open to enable light to enter into the building through a lightwell. Further lightwells are proposed above the lobby area.
17. The proposed materials and finish for the extension would be mainly pre-cast concrete to match the rest of the existing building. A terracotta screen is proposed on the main façade of the building. The proposed windows have aluminium frames and trims.
18. The proposed extension would contain chemistry labs and teaching over two floors, with areas of office accommodation over three floors. The upper portion of the building would contain the plant room for the building which would be entirely enclosed. Solar panels are proposed on top of the roof. As a result of the use of the building as labs there are some parts of the extension that would not have windows; the wall being proposed to contain fume cupboards.
19. The proposed extension would be built to high energy performance standard with design features to maximise natural light and ventilation.
20. Details of extraction equipment for the chemistry labs have been provided, these proposed to make use of existing vertical elements of the building; the existing lift area in the central block would contain ducts associated with the extraction from fume cupboards from the chemistry building.

New and Replacement Pods

21. It is proposed to replace all four of the existing mansard style pods (the older pods that were originally built in the 1990s). Three of these pods are located on the north-west elevation and one is located in the south-west corner of the building. It is also proposed to install seven new pods to match the existing four rectangular pods on the building (that were built in 2004). Three of the seven new pods would be located on east elevation, facing onto St Cross Street, two on the west elevation with one located in the centre of the south elevation and one located on the north elevation. The distribution of the new pods reflects the desire to infill the breaks in the steps that resulted from previous extensions and thereby re-instate the original architect's vision for the building as three symmetrical stepped fingers emanating from a central rectangular core.
22. The new pods would be constructed using a lightweight aluminium frame and a unitised metal cladding that match the existing rectangular type pods on the building.
23. The proposed pods would provide additional office and accommodation within the building.
24. Although the new and refurbished pods would be on top of existing roof areas they would not project beyond the existing highest storey of the roof.

Nitrogen Tank

25. It is proposed to install a nitrogen tank (to contain the element in its gaseous and liquid form). The tank would be located within a fenced enclosure between the Tinbergen Building and the Peter Medawar building at the west of the application site. The proposed tank would not be visible in the public realm.

Alterations to Entrance Area and Internal Changes

26. The proposed alterations to the entrance would involve a small front extension to enclose an existing undercroft. The existing metal footbridge is also proposed to be refurbished and will provide a new location for signage at the front of the building. A DDA compliant ramp will also be provided into the building. New doors and a refurbished reception centre will also be provided.
27. Internal improvements are also proposed to the building. These changes do not require planning permission but are noted in the application and represent part of the extensive refurbishments to the building. A continuation of the new reception area will open into a social hub and corridor linking the front of the building on South Parks Road with the access onto the University Club Sports Ground. New meeting spaces and improved circulation within the building will be provided.
28. The building has also recently been cleaned (which did not require planning permission) which has enhanced the visual appearance of the

building.

Officers Assessment:

29. Officers consider the principal determining issues to be:

- Principle of development
- Design, site layout and built forms;
- Impact on high building area and view cones;
- Living conditions of neighbouring properties
- Heritage, including impact on the setting of the Conservation Area;
- Access and parking
- Landscaping and trees
- Flood risk and drainage;
- Noise
- Biodiversity; and
- Sustainability.

Principle of development

30. The application site lies within the area defined as the University Science Area and Keble Road Triangle as set out in Policy SP58 of the Sites and Housing Plan (2013). This policy supports the development of academic institutional uses and associated research subject to design, conservation and car parking considerations.
31. Policy CS29 of the Oxford Core Strategy (2011) requires that any new academic floorspace relating to the University of Oxford should take place within their own existing sites. In the case of this application, this requirement is met.
32. Following on from the above, Officers have considered the principal of development on the application site in a wider context of national and local planning policy. In this case, the proposed two storey extension would take place on previously developed land; the National Planning Policy Framework together with Policy CS2 of the Oxford Core Strategy (2011) requires that the majority of new development take place on previously developed land.
33. Policy CP6 of the Oxford Local Plan 2001-2016 requires that new development makes more efficient use of land. The proposed development involves the creation of additional floors within an existing building; the development is also associated with the modernisation of the site and integration with new development (the proposed extension). The resultant development would maximise the use of the existing site and Officers regard that Policy CP6 would support in principle the proposed development on this basis.

Design

Site Layout and Built Form

34. The proposed development has been carefully considered in relation to its built form. The proposed two storey extension would be sited in such a way that would complement the existing built form of the Tinbergen Building by continuing both the stepped appearance the rectangular form of the pod elements of the building.
35. The proposed refurbishment of the pods and new pods would also contribute positively to the built form of the Tinbergen Building. The application includes significant information considering the original layout and shape of the Tinbergen Building as originally envisaged by Sir Leslie Martin and the proposed layout of pods would restore the shape and profile that was originally intended.
36. The proposed entrance area enhancements would not be particularly visible in the public realm and do not represent a significant change in terms of built form. The entrance would still be set back from the façade (facing onto South Parks Road). However, Officers consider that the proposals would contribute positively to the appearance of the building by modernising the appearance of the entrance area and creating a stronger visual marker to identify the entrance.
37. Officers consider that the scheme offers a significant opportunity in terms of improving the appearance of the building in design terms and taking a more strategic approach to extending it whilst also correcting the previous piecemeal additions to the building.

Materials

38. The proposed materials for the development have been selected on the basis of ensuring that the proposals harmonise effectively with the existing building. Officers consider that the choice of materials is suitable and will ensure that the developments are not discordant additions and represent high quality design.
39. Very detailed proposals have been submitted in relation to the proposed two storey extension; particularly the treatment of the façade of that building.
40. As the details of materials to be used have been submitted during application stage, officers have recommended that a condition be included that ensure only those materials are used.

Impact on Street scene

41. The proposed development would be visible in the public realm; specifically it would be visible within the street scene of South Parks Road and St Cross Street. A glancing view of the proposed development, chiefly the proposed two storey extension would be visible from Mansfield Road adjacent to the University Club.

42. The application site occupies a prominent corner plot and as well as its impact on street scene it would be visible in the wider public realm, including University Parks (opposite the site) and entrance to the Marston Cycle Route (where a unique view of both the front and side elevation of the building is provided). Officers have considered the visibility of the existing building within the street scene and the public realm as part of an assessment of the design of the proposals.
43. The proposed development has been carefully considered in terms of how it would address the street scene. The built form and appearance of the pods would ensure that it would harmonise effectively with both the existing building and the original vision of the architect.
44. The proposed extension to the building would create the largest areas of new floorspace but have been sited in such a way that this aspect of the scheme would not be as visually prominent when viewed in the public realm. The existing wall and vegetation along St Cross Road would soften the appearance of the proposed extension and reduce its overall impact on the public realm. The proposed size and scale of the extension would be visually acceptable in this location and has been carefully considered to ensure that it forms an appropriate visual relationship with the existing building.
45. The proposed additions to the roofscape in terms of the flues, solar panels, ducts and stairs associated with the developments on the site have been deliberately proposed in such a way that they closely relate to the existing built form of the Tinbergen Building which would minimise their visual intrusion in the public realm. Further to this, Officers have been mindful of the character of this part of the City where a number of science buildings contain similar plant and equipment that is associated with the research and work of their occupiers. In this way, the proposals for plant and equipment represent normal functional additions to the building.
46. In addition to the public realm, Officers have considered the impact of the proposed development on other views. One of the most interesting views provided of the existing Tinbergen Building is available from the University Club building that lies on Mansfield Road. The University Club benefits from extensive terraces and a large sports ground that is contiguous with the application site. The proposed two storey extension and a number of the pod additions will be prominent when viewed from that building and the associated sports ground. Officers consider that the proposed design has been thoughtfully designed in terms of its relationship with its surroundings and this is typified by the approach taken with regards to the respectful built form, careful detailing and sensitive use of materials.

Design review panel, pre-application advice and consultation

47. The application was considered by the Oxford Design Review Panel; as a result of the panel's comments there were aspects of the design that were altered. The proposed development has also been the subject of

extensive consultation and pre-application discussions.

48. For the above reasons, officers recommend that the proposed development is acceptable in terms of its design.

Living Conditions

49. The application site lies approximately 110m from the nearest residential property (in St Cross Road). Officers have considered the impact of the proposed development on nearby residential occupiers in terms of loss of privacy, impact on light and whether or not the building would have an obtrusive impact. Officers consider that the distance between the building and nearby residents means that there would not be any of these detrimental impacts on amenity and the development would therefore be acceptable in terms of its impact on occupiers.

Heritage, including impact on the setting of the Conservation Area Conservation Area

50. The application site lie outside of the Central (University and City) Conservation Area; but the boundary of the Conservation Area runs along the southern and eastern edges of the site. Officers have had regard to the impact of the proposed development on the setting of the Conservation Area, including views from within the Conservation Area of the building. The design of the proposed extension, pods and other additions (notably external staircases, flues and ducts) would not have a detrimental impact on the setting of the Conservation Area; the development would relate closely to the existing built form of the building and the proposed use of materials would ensure that it harmonised with existing development on-site. The proposed nitrogen tank would not be visible in the Conservation Area.

Historical Importance of Building

51. The application contains information relating to the heritage significance of the Tinbergen Building itself. Other buildings designed by Sir Leslie Martin have been considered to be important examples of 20th Century architecture, particularly associated with the Brutalist style. Within Oxford, the St Cross Building which was also designed by Martin is a listed building; other famous examples of his work include the Royal Festival Hall in London. The Tinbergen Building is not listed but the application does include information about the heritage significance of the building. Officers note that there has been significant care and attention with regards to the design of the proposals to ensure that the original architectural vision for the building, including its unique built form, has been preserved.

Archaeology

52. The application site lies within an area of archaeological interest and importance. An initial study has been carried out and this has indicated the potential presence of other items of interest. As a result, Officers have

recommended a condition be included that would require further archaeological investigations as well as recording and presentation of findings.

Building Height, Impact on High Building Area and View Cones

High Building Area (Policy HE9)

53. The application site lies within the defined 'high building area' as set out in Policy HE9 of the Oxford Local Plan 2001-2016. This requires that new buildings not be built any higher than 18.2m from ground level or 79.3m above sea level; whichever is the lower. In the case of existing buildings that are being proposed for redevelopment, where they already exceed this height the Council must carefully consider their appearance within the townscape and skyline.
54. Parts of the existing Tinbergen Building exceed 18.2m in height, with the top floor of the building being approximately 20m in height (when measured from the ground level) or approximately 21.5m from street level. The existing lift blocks protrude beyond this level to an overall height of approximately 25m from ground level. On this basis, the existing Tinbergen Building already exceeds the prescribed height of buildings that would normally be permitted within the high building area. Some redevelopment of this site above the prescribed maximum height is therefore acceptable in principle but does need to be carefully considered.

View Cones (Policy HE10)

55. Policy HE10 of the Oxford Local Plan 2001-2016 deals with view cones; these are the defined areas where views from particular locations are considered to be notably significant. The policy requires that development within these areas needs to protect the defined views. The Tinbergen Building lies within the high building area and not within any of the defined view cones. The development lies within the path of the view from Elsfield, so consideration from this defined view is assessed in particular detail below.

Assessment

56. Officers have considered the provisions of Policy HE9 and consider that the most appropriate way of assessing the proposals against the policy is to consider the three distinct areas of development that could have an impact upon the townscape and skyline. These elements are the proposed two storey extension, the proposed (and refurbishment) of pods and the proposed vertical elements and plant (ducts, staircases and flues etc). An assessment of these elements is detailed below.
57. The recently produced 'Assessment of the Oxford View Cones' has been a particularly useful document in terms of assessing the proposals. Officers have also carried out a site visit with the impact on the Elsfield view cone in mind and have sought further information from the applicant's agent relating to the impact of the development on the skyline.

Two Storey Extension

58. The largest single mass of new development proposed would be the two storey extension. Parts of this extension would be built on land that was relatively undeveloped, having previously contained outbuildings and storage areas. In many respects, the proposed extension could be arguably assessed on the basis of being a new building in the context of Policy HE9 but could also be considered to be a redevelopment of an existing site. Regardless of how the proposed extension is assessed, it's overall height falls below the 18.2m (or 79.3m above sea level) limit for buildings as set out in Policy HE9 and is therefore in conformity with that policy. In reaching this recommendation, Officers have been mindful of the proposed solar panels on the roof of the building which fall within the prescribed maximum height. The decision by the applicant to contain all plant within the proposed extension's upper floor means that there would be a reduced visual impact in terms of townscape and skyline, particularly from nearby buildings.

Pod Extensions

59. Parts of the pods at the highest level (Level F) protrude beyond the high buildings level defined in Policy HE9. The proposed pods would relate very closely to the existing building and would not protrude prominently about the surrounding bulk of the Tinbergen Building. Officers consider that when viewed from a distance this would mean that the additional pods would not create a discordant feature that would obscure or detract from views of surrounding buildings. The carefully considered design of the building means that the proposed pods would essentially reflect the overall shape and pattern of development that exists already in terms of the building's form.

Plant and Vertical Elements

60. Parts of the proposed vertical elements (the ducts and flues associated with the extraction from the new extension) and the plant would be located above the high buildings level defined in Policy HE9. Officers have carefully considered the acceptability of these additions which relate very closely to the existing vertical elements (the lift blocks). Proposed staircases would be screened within the bulk of the existing building. The proposed plant would be located within the centre of the building which would reduce its overall impact and prominence. Officers recommend that the relatively small bulk of these additions in the context of the existing bulk of the building and their siting relative to the building's form would mean that they would form an acceptable visual relationship in the context of the skyline and not create a visually discordant feature.
61. The applicant's agent has provided further information about the requirement for the extraction equipment and plant to be provided. This is needed to ensure that the fume extraction from the chemistry extension is functional and is therefore essential to the working of the development as a whole. This matter was carefully considered at the design stage and Officers consider that these elements are suitable in design terms. However, the external treatment of these elements has not been

extensively detailed within the existing application and a condition has been recommended that would require these details prior to the commencement of this aspect of the development.

Other Additions

62. For clarity, the proposed nitrogen tank is at ground level and will not be visible in the skyline.

Concluding Points in Relation to Building Height

63. Officers have considered the overall visibility of the building when viewed from further distances. The building is visible across the meadow from the Marston cycle route and recreation ground; though it would not block views of the skyline from this direction. Officers have also considered the impact of the extensions on the view from Elsfield. The Elsfield view is specifically considered in the view cones of Oxford (referred to in Policy HE9 and HE10 of the Oxford Local Plan 2001-2016). The Tinbergen Building is not particularly visible from this direction because it is sited amongst other science buildings and trees (which obscure it even in winter). More importantly the proposals would not block the view of the spires or detract from them when viewed from Elsfield nor would it compromise the wider view of the roofscape of the Victorian extensions to Oxford. Officers recommend that the development is therefore acceptable in the context of Policy HE9 having taken into account all of the relevant considerations.

Access, Parking and Cycle Parking

Access and Car Parking

64. The proposals relating to access and parking have been considered in relation to Policy SP58 of the Sites and Housing Plan (2013). The proposed development would result in the loss of 4 of the 38 existing car parking spaces but there are separate requirements to provide laybys on both South Parks Road and St Cross Road. The development minimises the amount of car parking and slightly reduces the overall capacity of the site for car parking; Officers therefore suggest that the development conforms with the requirements of Policy SP58. The Highway Authority have raised no objections but have requested that a Section 278 agreement is provided to deal with the laybys. Officers recommend that the development is acceptable regardless of the provision of the laybys which lie outside of the application site; on this basis it is not necessary to provide the Section 278 agreement as part of this proposal but this can be sought separately by the applicant with the Highway Authority.

Cycle Parking

65. The existing Tinbergen site currently contains a large amount of cycle parking, 377 spaces. But many of the spaces are provided by a variety of different cycle parking designs, including wall mounted hoops. It is proposed to provide significant investment in cycle parking as part of the proposed development. Firstly, existing cycle parking facilities would be standardised to be provide a uniform design of Sheffield Stands with a

minimum distance of between stands of approximately 1m with more popular cycle parking areas having a greater distance between stands of approximately 0.9m. A bicycle parking system with a vertical stacked arrangement is also proposed to provide approximately an additional 150 spaces within a secure caged area to the side of the Tinbergen area; this is proposed to provide a large concentration of cycle parking in a high demand area that would also be secure. The total cycle spaces to be provided would be 502 spaces

Landscaping and trees

66. The proposals require some work to existing trees as well as landscaping work to be carried out in conjunction with the development to improve its visual appearance. None of the trees within the existing site are protected.
67. The proposals would involve the removal of an existing early mature cedar tree (referred to as T2 on the submitted plans). The submitted details propose to replace the tree and would enable nearby trees to be retained and protection measures put in place while construction is carried out.
68. Officers are satisfied with the submitted arboricultural method statement and tree protection measures. Details relating to the underground services to be routed within Root Protection Areas (RPAs) can be dealt with by condition.
69. Planting is proposed around the borders of the and relating to the laybys areas, this would be at a low level which follows the advice provided by highways officers.
70. It is proposed to retain the existing Ginko tree at the entrance.
71. Officers recommend that the proposed landscaping works are acceptable.

Safety of Nitrogen Tank

72. Nitrogen is inert and non-flammable. The proposal is for a tank that would meet safety standards and would be enclosed with a fence. Officers have included a condition in the recommendation that has sought details of the enclosure and any signage associated with it.

Biodiversity

73. Officers have reviewed the findings of the ecologist's survey submitted with the application. The findings of the study are accepted although conditions are included with the recommendation which would require a repeat survey in the next twelve months, vegetation clearance to take place during March to August (to reduce impact on nesting birds) and to provide biodiversity enhancement measures.
74. The application site lies within half a mile of the New Marston Meadows SSSI. This is a grassland habitat close to the river Cherwell. Officers

consider that the proposed development would not have a detrimental impact on the meadows.

Energy and Sustainability

75. Two reports have been submitted with the application that detail how improvements and alterations would be made to the existing building to make it more energy efficient and how the proposed extension would be built to include energy efficient and renewable energy generation. A condition has been included with the Officer recommendation to ensure that the recommendations and technologies included in the report are implemented as part of the approved development.

Noise

76. The proposed plans include a chiller located on the roof of the first floor and two plant rooms as shown in the proposed plant plans submitted with the application. Officers have considered the noise impact of this equipment, particularly in relation to the nearest residential occupiers. The nearest residential properties to the application site lie in Mansfield Road (approximately 150m away) and St Cross Road (110m away). The noise reports submitted with the application states that the plant has been designed to ensure that noise does not have a harmful impact on the amenity of neighbouring residential areas; specifically that noise from plant does not exceed 52dB at 3m from the equipment. A condition has been included as part of the Officer recommendation to ensure that this is the case.

Flooding and Surface Water Drainage

77. The application site does not lie within a defined area of high flood risk. A detailed flood risk assessment and drainage strategy have been submitted with the application. The proposed development would mainly be sited on existing impermeable surfaces and would not therefore give rise to a significant impact on surface water drainage on the application site.
78. Officers have included in the recommendation a condition that would require the specifications and methods included in those reports to be used throughout the development. This will ensure that the principals of SuDS will be complied with and the development will meet the requirements of Policy CS11 of the Core Strategy (2011).

Conclusion:

79. On the basis of the above, Officers recommend that members grant planning permission subject to the conditions included above.
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:

15/03105/FUL

Contact Officer: Robert Fowler

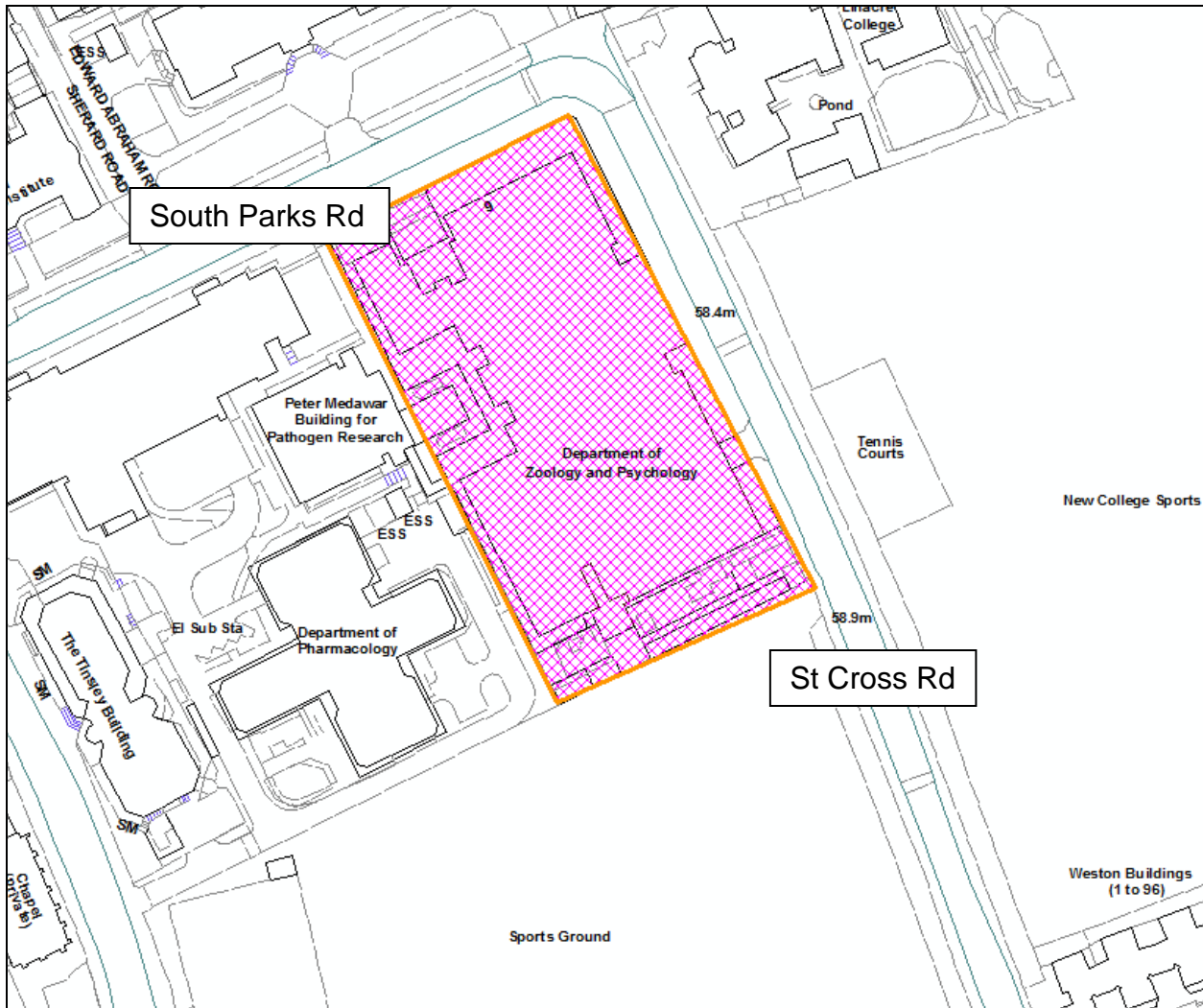
Extension: 2104

Date: 17th November 2015

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Appendix 1

15/03105/FUL - Tinbergen Building



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Ordnance Survey 100019348

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West Area Planning Committee

5th January 2016

Application Number: 15/01733/FUL

Decision Due by: 3rd August 2015

Proposal: Erection of free standing frame and canopy (Retrospective);

Site Address: Old Parsonage Hotel, Banbury Road, Oxford, OX2 6NN;

Ward: North Ward;

Agent: Mr. N. Lyzba (JPPC) **Applicant:** Mr. J. Mogford

Recommendation:

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

- i. The proposal, by virtue of its prominent location, siting, design, scale, mass and use of materials is unacceptable forming an unsympathetic visual relationship to its host building which is harmful to and fails to safeguard the special architectural and historic interest of this Grade II Listed Building, the setting of a nearby Grade I Listed Building. The proposal also fails to preserve or enhance the character and visual quality of the street scene and this part of the Central Conservation Area. The proposal is contrary to policies 'CP1, CP8, CP9, CP10, HE3, HE7' of the '*Oxford City Council Local Plan*' 2005; and 'Policy CS18' of the '*Oxford City Council Core Strategy*' 2011; and Oxford City Council's Supplementary Planning Document on '*High Quality Design*' 2015; and 'Paras 129, 132 and 134' of the '*National Planning Policy framework*' 2012 and 'Paras 013, 015, 019 and 020' of the '*National Planning Policy Guidance*'.
- 1. Principle Policies:**
- i. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan and relevant supplementary documents unless material considerations indicate otherwise. The Development Plan for oxford alongside relevant supplementary documents include the '*Oxford City Council Local Plan*' 2005: the '*Oxford City Council Core Strategy*' 2011: and Oxford City Councils Supplementary Planning Document on '*High Quality Design*' 2015.

- ii. The '*National Planning Policy framework*' ("NPPF") 2012 states clearly that its content is to be a material consideration in the determination of applications. The 'NPPF' states that due weight should be given to the adopted policies of the Local Development Framework (LDF) (Core Strategy and Sites and Detailed Policies Document) according to their degree of consistency with the '*NPPF*' (the closer the policies in the plan to the policies in the '*NPPF*', the greater the weight that may be given). Accordingly, the 'NPPF' and the following development plan policies and supplementary planning guidance are relevant:
- iii. The application has been assessed against the following policies:

National

National Planning Policy framework 2012 (paragraphs 129, 132 and 134);
National Planning Policy Guidance (paragraphs 013, 015, 019 and 020);

Oxford City Council Local Plan 2005 (as amended 2013)

CP1 - Development Proposals;
CP8 - Design Development to Relate to its Context;
CP9 - Creating Successful New Places;
CP10 - Siting Development to Meet Functional Needs;
HE3 - Listed Buildings and Their Setting;
HE7 - Conservation Areas;

Oxford City Council's '*Core Strategy*' 2011

CS18 - Urban Design, Townscape Character and the Historic Environment;

Oxford City Council's Supplementary Planning Documents

High Quality Design 2015;

Other Planning Documents

Historic Environment Good Practice Advice in Planning: 2;

2. Relevant Site History:

- i. A planning history search exercise was carried out on 17.12.2015 to reveal the following site history that is considered of material relevance to this submission:
 - 13/00507/FUL - Extension and alterations to infill part of 1st floor roof terrace to form residents lounge and insertion of new windows (amendment to 10/02891/FUL). PER 26th April 2013.
 - 13/00508/LBC - Extension and alterations to infill 1st floor roof terrace to form lounge at E elevation; infill of 4 windows; conversion of 1 bedroom to 2; insertion of 2 windows to S elevation and infill of vent to S elevation insertion of windows to E elevation (amendment to 10/02899/LBC). PER 25th April 2013.

- 13/01942/LBC - External alterations involving replacement of office door with new window. Internal alterations to ground floor involving removal of existing partition walls and doors; insertion of new partition walls, doors, structural steelworks and plasterboards; relocation of WCs; removal of staircase leading to first floor office and formation of new store.. PER 15th October 2013.
- 13/00508/CND - Details submitted in compliance with conditions 9 (Materials - samples), 10 (First floor windows to match), 11 (Details of various plant) and 12 (Infill stone south elevation) of listed building consent 13/00508/LBC. PER 26th November 2013.
- 10/02899/CND - Details submitted in compliance with condition 7 (Materials - sample panels) of listed building consent 10/02899/LBC. PER 26th November 2013.
- 15/01759/FUL - Erection of cycle store (Retrospective). PER 14th August 2015.
- 15/01783/LBC - Retention of cycle store. PER 14th August 2015.

3. Representations Received:

- i. 2 letters of objection were received, and the comments are summarised below:
 - Detrimental impact on the appearance of the Listed Building and the church, and character of the Conservation Area.
- ii. 42 letters of both neutral comments and support were received, of which 18 contained relevant material planning considerations summarised as follows:
 - No actual perceived harm caused to the building's façade, and providing improved functionality.

4. Statutory Consultees:

- i. Historic England - Raising objection, for the following reasons:

"In views towards the hotel, the awning is visible rising up above its front boundary wall. The very clunky horizontal top rail, vertical elements and its colour give the awning a strong presence in this view. These details also mean that its overall design quality is poor and it is in our view an incongruous and unattractive addition to the historic townscape. We think this seriously compromises views towards the hotel and the Church of St Giles and therefore conclude that it harms the aesthetic qualities of the townscape and thus the significance of the conservation area, the Grade I listed Church of St Giles and the Grade II Old Parsonage Hotel."

- ii. Oxfordshire Architectural & Historical Society - Raising objection, for the following reasons:

“The ‘Heritage Statement’ suggests that it is sympathetically designed, high quality and low key. It is none of these things – it is clunky, ugly and grossly obtrusive. It is located directly in front of the listed building on land that appears from the historic views supplied never to have had a structure on it in the past. The canopy both when erected and when not in use prevents the visitor having a full view of the façade of the Old Parsonage. It thus causes significant harm to the setting of the listed building without any commensurate public benefit – the benefits to the hotel as stated in the application are for private commercial gain.”

5. Site Description:

- i. The application site and its surroundings fall within the defined settlement boundary of Oxford (city centre commercial area) as depicted on the Local Plan Policies Map. The site falls within the North Ward (OS Grid Ref: E451145 N207017), which is located on the Western side of Banbury Road. Site constraints that are of material planning relevance include; Central Conservation Area; Development affecting the setting of a Grade I and Grade II Listed Building.
- ii. In terms of its immediate context, the applicants property (UPRN: 200004676546) is an end detached building. The front east elevation of the Old Parsonage is its primary elevation and is of considerable architectural significance. The Old Parsonage Hotel is a grade II listed building dating to the early 17th century having been restored at a later date. The east elevation fronts onto Banbury Road and is of coursed rubble stone construction with two gables, stone copings, ball finials and a stone slate roof. The ground floor has three stone doorways with 4-centred heads, moulded jambs and spandrels, with that on the South having been renewed. In a spandrel of the centre doorway is the date 1659. The window openings have stone mullions with moulded stone cornices and leaded casement windows. Along the front boundary is a substantial coursed rubble stone wall with arched gated entrances, which runs parallel with Banbury Road.

6. Proposed Development:

- i. This application seeks retrospective planning permission for a freestanding canopy and frame which is sited in the paved seating area to the front of the building behind the stone boundary wall and spans a substantial distance across the width of the plot. The structure has acrylic canopies and a metal frame which comprises in-built heaters, lighting and retractable canopy storage, and as a result is substantial in size. The structure projects above the surrounding boundary wall and the ground floor windows and doors in the front east elevation.

7. Officers Assessment:

- i. Officers consider the principal determining issues to be:
 - a) The principle of development;
 - b) Whether the proposal would preserve or enhance the appearance of a Grade II Listed Building;
 - c) Whether the proposal would preserve or enhance the setting of a Grade I Listed Building;
 - d) Whether the proposal would preserve or enhance the character of the Central Conservation Area;
- ii. Principle of Development

In terms of national policy, paragraph 63 from the 'National Planning Policy Framework' 2012, in part states:

"In determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area".

Paragraph 132 from the document then goes onto state:

"When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification".

In local policy terms, 'Policy CP1' on from 'Oxford City Council's Local Plan' 2005 in part states that Planning permission will only be granted for development which:

- a) *shows a high standard of design, including landscape treatment, that respects the character and appearance of the area; and*
- b) *uses materials of a quality appropriate to the nature of the development, the site and its surroundings; and*

Due to its historic and architectural significance, this building also makes a significant contribution to the character and appearance of this Northern part of the Central Conservation Area. As well as the building being within the setting of, and having a visual relationship with, the adjacent grade I listed church, the site is historically linked with the church, as is detailed in the Heritage Statement and therefore all material policy matters need be taken into consideration when formulating a recommendation.

iii. Design/Heritage (Assessment of Harm)

The canopy installed is a substantial and bulky modern feature, at odds with the characterful historic setting in its form, size, materials, design and appearance. When closed it is visually prominent to the front elevation, dominating the front courtyard. Due to its height, and width across much of the building, it visually cuts across the first floor windows, when seen from both within the site and from the public realm of the street. It has a harmful impact to the appearance of the building, and the eye is drawn to this modern structure. When the canopy is open, this has an even greater impact on the appearance of the building, further obscuring the front elevation, and reducing the ability to appreciate the historic character and architectural significance of the principle elevation.

The lighting strip hanging below the main canopy casing adds further to the visual prominence and scale and bulk of the structure. The 3 supporting posts are substantial, and the top area which accommodates the canopy is large and bulky. Officers consider that the heavy structure is not in keeping with the finer lines and lighter detailing on the building, such as the vertical mullions of the windows, and the horizontal string courses. The finish of the structure gives it a modern appearance, which is not sympathetic to the setting of the Listed Building. The canopy is harmful to the setting of the Listed Building and the character of the Central Conservation Area and should be removed.

For reasons outlined above, it is considered that the effect of the free freestanding canopy and frame structure amounts to less than substantial harm to the setting of the Grade II Listed Building (Old Parsonage Hotel) and the Grade I Listed Building (St Giles Church) and the character and appearance of the Central Conservation Area. The development proposal would therefore fall contrary to policies 'CP1, CP8, HE3, HE7' of 'Oxford City Council's Local Plan' 2005; and 'Policy C18' of 'Oxford City Council's Core Strategy' 2011;

iv. Mitigation/Alternatives

There are considered to be alternative solutions which would better relate to the architectural character of the listed building, such as canopy structures of a more refined, elegant design. Introducing several smaller, individual structures of a high quality design would mitigate the harmful impact caused by the massing of the current structure and whilst this may result in more 'clutter' to this front seating area, the scale of the structures would better relate to the scale of the existing building. The recently approved bicycle shelter on the site is an example of the high design quality that can be achieved here without detracting from the setting of the listed building, and this same approach of achieving high quality design should be used in the creation of a canopy structure.

The agent's further informal proposal to mount the existing structure onto boxed wheels would be unacceptable and more harmful than the current

situation, and therefore, notwithstanding whether planning permission is required, would be a disappointing outcome particularly in light of the high quality design and renovation works that have already been achieved at the site. Therefore the officers consider the operational development to be contrary to local policy, but not the use or potential for a cover-solution in principle.

v. **Other Material Considerations (Economic/Public Benefit)**

The economic benefits that the use of this outdoor seating area brings to the business, and the positive consequence of these benefits to the economic vitality of the area, are acknowledged. However, given that there are other solutions that would still enable the use of this seating area and would mitigate the harm to the setting of the listed building and the character and appearance of the conservation area, the retention of the existing structure is not justified in terms of and Para 132 from the 'National Planning Policy Framework' 2012, and thus cannot be supported.

The public benefit of the canopy and structure is considered limited. The development is for the commercial betterment of the Old parsonage Hotel and thus the benefit will be predominately for the guests and patrons of the Hotel. The wider public is not likely to benefit or enjoy the premises of this upscale establishment. As such the visual impact and contribution of the proposal to the townscape is considered more significant than the benefit of a few.

Officers consider that there are less harmful alternative options that would still enable the use of the outdoor seating area and therefore maintain the economic activity that the business currently contributes to the area. On balance, the development proposal is therefore not justified in terms of the provisions of Para 132 from the NPPF.

Guidance from the 'Historic Environment Good Practice Advice in Planning: 2', paragraph 26 in part states:

"if there is any apparent conflict between the proposed development and the conservation of a heritage asset then the decision-maker might need to consider whether alternative means of delivering the development benefits could achieve a more sustainable result, before proceeding to weigh benefits against any harm."

This means any benefits must be weighed against any harm that has been identified first. Officers as well as Historic England have identified substantial harm and thus any benefit must be considered against that harm.

8. Conclusion

- ii. Having regard to the material considerations and all other matters raised, the Local Planning Authority considers the proposal is inconsistent with the provisions of the development plan, and that the balance of considerations

therefore weighs against the granting of planning permission. Officers therefore recommend that members refuse planning permission.

Recommendation

Application be refused;

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: 15/01733/FUL

Contact Officer: Tobias Fett

Extension: 2241

Date: 17th December 2015



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Monthly Planning Appeals Performance Update – November 2015

Contact: Head of Planning & Regulatory Services: Patsy Dell

Tel 01865 252360

1. The purpose of this report is two-fold:
 - i. To provide an update on the Council's planning appeal performance; and
 - ii. To list those appeal cases that were decided and also those received during the specified month.

Best Value Performance Indicator BV204

2. The Government's Best Value Performance Indicator BV204 relates to appeals arising from the Council's refusal of planning permission and telecommunications prior approval refusals. It measures the Council's appeals performance in the form of the percentage of appeals allowed. It has come to be seen as an indication of the quality of the Council's planning decision making. BV204 does not include appeals against non-determination, enforcement action, advertisement consent refusals and some other types. Table A sets out BV204 rolling annual performance for the year ending 30 November 2015, while Table B does the same for the current business plan year, ie. 1 April 2015 to 30 November 2015.

Table A	Council performance		Appeals arising from Committee refusal	Appeals arising from delegated refusal
	No.	%	No.	No.
Allowed	10	34	3	7
Dismissed	19	66	2	17
Total BV204 appeals	29	100.0	5	24

**Table A. BV204 Rolling annual performance
(01 December 2014 to 30 November 2015)**

Table B	Council performance		Appeals arising from Committee refusal	Appeals arising from delegated refusal
	No	%	No.	No.
Allowed	7	47	3	4
Dismissed	8	53	1	7
Total BV204 appeals	15	100.0	4	11

**Table B. BV204: Current business plan year performance
(1 April 2015 to 30 November 2015)**

All Appeal Types

3. A fuller picture of the Council's appeal performance is given by considering the outcome of all types of planning appeals, i.e. including non-determination, enforcement, advertisement appeals etc. Performance on all appeals is shown in Table C.

Table C	Appeals	Performance
Allowed	21	43%
Dismissed	28	57%
All appeals decided	49	100.0%
Withdrawn	2	

**Table C. All planning appeals (not just BV204 appeals)
Rolling year 01 December 2014 to 30 November 2015**

4. When an appeal decision is received, the Inspector's decision letter is circulated (normally by email) to the committee chairs and ward councillors. If the case is significant, the case officer also subsequently circulates committee members with a commentary on the appeal decision. Table D, appended below, shows a breakdown of appeal decisions received during November 2015.
5. When an appeal is received notification letters are sent to interested parties to inform them of the appeal. The relevant ward members also receive a copy of this notification letter. Table E, appended below, is a breakdown of all appeals started during November 2015. Any questions at the Committee meeting on these appeals will be passed back to the case officer for a reply.
6. All councillors receive a weekly list of planning appeals (via email) informing them of appeals that have started and been decided, as well as notifying them of any forthcoming hearings and inquiries.

Table D

Appeals Decided Between 01/11/2015 and 30/11/2015

DECTYPE KEY: COMM - Area Committee Decision, DEL - Delegated Decision, DELCOM - Called in by Area Committee, STRACM - Strategic Committee;
RECM KEY: PER - Approve, REF - Refuse, SPL - Split Decision; NDA - Not Determined; **APP DEC KEY:** ALC - Allowed with conditions, ALW - Allowed without conditions, ALWCST - Allowed with costs, AWD - Appeal withdrawn, DIS - Dismissed

DC CASE	AP CASE NO.	DECTYPE:	RECM:	APP DEC	DECIDED	WARD:	ADDRESS	DESCRIPTION
15/00670/ADV	15/00039/REFUSE	DEL	REF	DIS	13/11/2015	HEAD	72 London Road, Oxford Oxfordshire OX3 7PD	Display of 1No internally illuminated totem sign.
15/00121/FUL	15/00040/REFUSE	DEL	REF	DIS	13/11/2015	QUARIS	79 Downside Road, Oxford Oxfordshire, OX3 8JJ	Erection of entrance gate. (Retrospective)
14/03118/FUL	15/00022/REFUSE	DEL	REF	DIS	18/11/2015	RHIFF	50 Ashhurst Way, Oxford Oxfordshire, OX4 4RE	Erection of two storey side extension

Total Decided: 4

Enforcement Appeals Decided Between 01/11/2015

APP DEC KEY: ALC - Allowed with conditions, ALW - Allowed without conditons, AWD - Appeal withdrawn, DIS – Dismissed

EN CASE	AP CASE NO.	APP DEC	DECIDED	ADDRESS	WARD:	DESCRIPTION
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Total Decided: 0

Table E

Appeals Received Between 01/11/2015 And 30/11/2015

DECTYPE KEY: COMM - Area Committee Decision, DEL - Delegated Decision, DELCOM - Called in by Area Committee, STRACM - Strategic Committee;
RECMND KEY: PER - Approve, REF - Refuse, SPL - Split Decision, NDA - Not Determined; **TYPE KEY:** W - Written representation, I - Informal hearing, P - Public Inquiry, H – Householder

DC CASE	AP CASE NO.	DEC TYPE	RECM	TYPE	ADDRESS	WARD:	DESCRIPTION
15/01082/FUL	15/00053/REFUSE	DELCOM	REF	W	238 Headington Road Oxford Oxfordshire OX3 7PR	CHURCH	Erection of 1 x 3-bed dwellinghouse (Use Class C3) Provision of private amenity space, bin and cycle store.
15/01224/VAR	15/00054/REFUSE	DEL	REF	H	16 Liddell Road, Oxford, Oxfordshire OX4 3QT	COWLEY	Variation of condition 3 (shed and conservatory – demolish) of planning permission 11/02072/FUL (single storey side Extension, two storey rear extension and new pitched roof over part of existing flat roof) to retain shed/workshop after commencement of development
15/01745/FUL	15/00052/REFUSE	DEL	REF	W	364 Banbury Road, Oxford Oxfordshire, OX2 7PP	SUMMTN	Demolition of existing building. Erection of new building to provide 2 x 4-bed dwellings (Use Class C3) (Amended plans)
15/01857/FUL	15/00059/REFUSE	DEL	REF	H	70 Wilkins Road, Oxford, OX4 2JB	LYEVAL	Erection of part single, part two storey side and rear Extension.
15/02631/FUL	15/00055/REFUSE	DEL	REF	H	6 Templar Road Oxford Oxfordshire OX2 8LT	WOLVER	Erection of part single, part two storey side and rear extension.

Total Received: 5

MINUTES OF THE WEST AREA PLANNING COMMITTEE

Tuesday 1 December 2015



COUNCILLORS PRESENT: Councillors Upton (Chair), Gotch (Vice-Chair), Cook, Hollingsworth, Price, Tanner, Henwood, Hollick and Wade.

OFFICERS PRESENT: Michael Morgan (Lawyer), Mehdi Rezaie (Principal Planner Team Leader), Niko Grigoropoulos (Planning Control and Conservation Manager), Catherine Phythian (Committee Services Officer) and Robert Freshwater (Oxfordshire County Council Highways).

74. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were received from:

- Cllr Benjamin, substitute Cllr Hollick
- Cllr Gant, substitute Cllr Wade
- Cllr Paule, substitute Cllr Henwood

75. DECLARATIONS OF INTEREST

The Committee noted the following declarations of interest:

Agenda item 5: Christ Church 15/00760/FUL

- Cllr Upton (Chair) – as an employee of the University. Cllr Upton stated that she did not participate in the consideration of the original planning application and that although this was a technical matter she would not participate in the meeting during consideration of this item.
- Cllr Hollick – as Ward member. Cllr Hollick stated that he did not participate in the consideration of the original planning application.

76. FORMER WOLVERCOTE PAPER MILL: 13/01861/OUT

The Committee considered a report detailing an application for outline planning permission (seeking means of access) for up to 190 residential units, employment space, community facilities, public open space and ancillary services and facilities at Wolvercote Paper Mill, Mill Road, Oxford.

The planning officer presented the report and advised of the following changes to the conditions and legal agreement set out in the report as follows:

Conditions:

- 16: Noise insulation for development built near Mill Stream Weir – **add and to mitigate noise from the A34**

- 18: Details of proposals for dealing with cooking smells and odours arising from any non-residential use – **change to informative**
- 27: Provision of allocated car parking for four cottages in Mill Road within the layout. **Delete.**
- 32: Details of Foul and Surface Water Drainage to be confirmed and agreed prior to commencement – **amend to 2 separate conditions.**
- 39: Approval of any flues associated with renewable energy boilers to be agreed and limited in terms of emission levels – **change to informative.**

Additional S106 terms to include:

- Two replacement bus stops on Godstow Road
- Mix of size of units of affordable housing
- Payment to County of £1,240 to provide monitoring of the travel plan for 5 years once agreed and implemented
- Payment to County of £2,500 for Traffic Regulation Order changes to introduce new parking restrictions in relation to the roundabout

Mr Nik Lyzba, the agent for the applicant, spoke in support of the application.

Mr John Bleach, a local resident and member of the Wolvercote Neighbourhood Forum and Wolvercote Commoners Committee, spoke in support of the application but highlighted a number of outstanding concerns.

The Committee agreed to the following informatives, the full details of which would be included in the decision notice:

- Carbon neutral buildings
- Small Archimedes screw electricity generation
- Combined heat and power
- Use of roof spaces
- Weir management
- Travel strategy

The Committee resolved to approve application 13/01861/OUT at Wolvercote Paper Mill, Mill Road, Oxford with the following conditions, legal agreement and other informatives and as amended above:

Conditions:

1. Development begun within 5 years Outline PP or 2 years of Reserved Matters.
2. Approved Outline Matters (principle and means of access).
3. Reserved Matters (all matters other than means of access).
4. Specified Approved Plans (excluding illustrative masterplan and associated plans contained within the Design and Access Statement).
5. Submission of formal masterplan and design codes as part of reserved matters
6. Retention and management of trees in accordance with principles set out in Woodland Management Strategy including retention and appropriate management of existing tree belt adjacent Home Close.
7. Building height restrictions.

8. Housing Mix in accordance with BoDSPD.
9. All homes built to Lifetime Homes Standard
10. 5% of new dwellings fully accessible or easily adaptable to full wheelchair use.
11. Delivery of non-residential uses and community facilities.
12. Landscape and Open Space Strategy to be agreed and appropriate arrangements made for future management and maintenance of open space, before commencement of development.
13. All landscaping to be carried out within first planting season following completion.
14. Inclusion of public art on site.
15. Construction Traffic and Environmental Management Plan agreed before development commences.
16. Noise insulation for development built near Mill Stream Weir and to mitigate noise from the A34
17. Details of any mechanical plant.
18. Development to meet the principle and physical security standards of Secured by Design.
19. Lighting Strategy to be agreed before commencement of development.
20. Construction of access in accordance with approved plans.
21. Travel Plan
22. Travel Plan to be implemented in full.
23. Visibility splays.
24. Location of bus stops.
25. Traffic Regulation Order for new parking restrictions in vicinity of new access.
26. Development to take place in accordance with FRA – as recommended by Environment Agency.
27. Remediation Strategy to be agreed before development commences – as recommended by Environment Agency.
28. Completion of works in accordance with Remediation Strategy.
29. Watching brief for unexpected any unexpected contamination found and agreed of measures to remediate.
30. Details of Foul Water Drainage to be confirmed and agreed prior to commencement.
31. Details of Surface Water Drainage to be confirmed and agreed prior to commencement.
32. 8m buffer to be provided alongside Mill Stream and scheme of management submitted and agreed before commencement.
33. Requirement for repeat biological surveys.
34. Details of Biodiversity Method Statement to be agreed before commencement.
35. Ecological Management Plan to be agreed and appropriate arrangements made for future management and maintenance of open space and ecological habitat, before commencement of development.
36. Archaeological evaluation and scheme of mitigation to be agreed before commencement.
37. Detailed NRIA to be submitted with reserved matters application, including delivery of at least 20% renewable energy on site, in accordance with principles and proposals set out in the Renewable Energy Strategy.

38. Provision of Electric Vehicle Charging Points.

Legal Agreement:

To secure the delivery of on-site affordable housing provision, the doctor's surgery, community facilities, appropriate measures to secure adequate provision, management and maintenance of open space and biodiversity enhancements, bus service procurement, s278 and s38 agreement for highway works the applicant will need to provide an undertaking under the terms of Section 106 of the Town & Country Planning Act 1990.

Informatives to include:

- Details of proposals for dealing with cooking smells and odours arising from any non-residential use.
- Approval of any flues associated with renewable energy boilers to be agreed and limited in terms of emission levels.
- Carbon neutral buildings
- Small Archimedes screw electricity generation
- Combined heat and power
- Use of roof spaces
- Weir management
- Travel strategy

77. 1 ABBEY ROAD:15/02512/FUL

The Committee considered a report detailing an application for planning permission for the demolition of existing buildings, erection of 6 houses (2 x 3bed, 4 x 4bed) and 6 flats (1 x 1bed, 3 x 2bed and 2 x 3bed) on three levels. at 1 Abbey Road, Oxford, Oxfordshire OX2 0AD.

Mr Neil Cotterell, the applicant, spoke in support of the application.

Ms Patricia Jones, a local resident, spoke in support of the application.

The Committee debated the practicalities of the waste and recycling arrangements for the development and agreed that all the units should have access to waste storage at both the front and rear of the properties. The Committee also considered the merits of an informative to encourage the allocation of some of the on-road parking at the front of the development to dedicated cycle parking. Officers advised that this would be addressed under Condition 7: Details of cycle parking, waste & recycling storage areas.

Contrary to the officer's recommendation, the Committee agreed to amend **Condition 10: Parking Permits for family homes** because they felt that the proposal to limit entitlement to 1 residents' parking permit to the 3-bed and 4-unit was unreasonable. They agreed that each of the units in the development should be entitled to 1 residents' parking permit.

The Committee resolved to approve application 15/02512/FUL at 1 Abbey Road subject to the planning conditions set out below, the completion of a S106 Legal Agreement which secures affordable housing provision on-site and to delegate to officers the completion of that legal agreement and the issuing of the notice of planning permission.

Conditions:

1. Development begun within time limit.
2. Development in accordance with approved plans.
3. Samples of materials.
4. Landscape plan required.
5. Landscaping to be carried out by completion.
6. Boundary details - development commencement.
7. Details of cycle parking, waste & recycling storage areas.
8. Travel Information Packs.
9. Alterations to the Public Highway - Reinstatement of Kerb.
10. Parking Permits - 1 residents' parking permit for each unit.
11. Construction Traffic Management Plan.
12. Submission of surface drainage scheme.
13. Water butts to be provided for each new house and for the terrace of flats.
14. Archaeological recording and building recording.
15. Implement in accordance with recommendations of bat survey.
16. Details of biodiversity enhancement measures.
17. Submission and agreement of scheme to deal with risks associated with identified contamination.
18. Restrict occupation until any approved remediation works have been carried out.
19. Development halted if unsuspected contamination is found during the course of development.

Legal Agreement: To secure financial contributions towards the delivery of affordable housing on-site, the applicant will need to provide an undertaking under the terms of Section 106 of the Town & Country Planning Act 1990.

Cllr Upton, having declared an interest, took no part in the meeting for the following item 5: Christ Church: 15/00760/FUL. Cllr Gotch, the Vice- Chair, assumed the Chair.

78. CHRIST CHURCH: 15/00760/FUL- REPORT BACK ON S.106

The Committee considered an addendum report reporting back on s106 matters and detailing an additional condition to be applied to the planning permission (15/00760/FUL) for the visitor centre development at Christ Church College, St Aldates, which had been approved by the Committee on 9 June 2015.

The Committee noted that the original approval for this proposal was subject to a contribution of £2000 to the County Council secured via a S106 agreement towards establishing a new scheduled coach set-down stop and improve the bus stops along St Aldate's and way-finding information within the site. Since the

Committee's decision the applicant had queried the purpose of the contribution and the direct relevance of the works. The County Council confirmed the contribution was intended to allow them to tidy up the present arrangements outside Tom Gate. This was seen as a benefit to Christ Church in managing their visitors but was not proposed to directly mitigate the visitor centre. As a result the County have reviewed their position and withdrawn their request for the contribution.

The Committee resolved to approve application 15/00760/FUL at Christ Church College, St Aldates subject to the conditions set out previously, but with an additional condition requesting details and approval of way-finding measures within the site.

Cllr Upton resumed the Chair for the remainder of the meeting.

79. MINUTES OF PREVIOUS MEETING

The Committee resolved to approve the minutes of the meeting held on 10 November 2015 as a true and accurate record.

80. FORTHCOMING APPLICATIONS

The Committee noted the list of forthcoming applications.

81. DATES OF FUTURE MEETINGS

The Committee noted the dates of the scheduled meetings and that an additional meeting had been arranged for Tuesday 15 December, 4.00pm in the Council Chamber, Town Hall.

The meeting started at 6.30 pm and ended at 8.00 pm

MINUTES OF THE WEST AREA PLANNING COMMITTEE

Tuesday 15 December 2015

www.oxford.gov.uk



COUNCILLORS PRESENT: Councillors Upton (Chair), Gotch (Vice-Chair), Benjamin, Cook, Fooks, Hollingsworth, Price and Tanner.

OFFICERS PRESENT: Fiona Bartholomew (Principal Planner), Michael Morgan (Lawyer), Tim Sadler (Executive Director Community Services), David Stevens (Environmental Health Officer) and Jennifer Thompson (Committee and Members Services Officer)

82. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Councillor Gant submitted apologies and Councillor Fooks substituted for him. Councillor Paule submitted apologies.

83. DECLARATIONS OF INTEREST

There were no declarations.

84. CONDITION 19, PART 13 (NOISE BARRIERS- ROUTE SECTION H) OF TWA/10/APP/01- EAST WEST RAIL LINK: 15/03110/CND

The Committee considered application for 15/03110/CND - details submitted in compliance with Condition 19, Part 13 (Noise barriers- Route Section H) of TWA Ref: TWA/10/APP/01 (The Chiltern Railways (Bicester to Oxford Improvements) Order - deemed planning permission granted under section 90(2A) of the Town and Country Planning Act 1990) – setting out proposed design and confirming the location of the noise barriers along Section H of the railway line.

The Planning Officer reported on a number of points including:

- The location and size of the proposed noise barriers were fundamental to the acceptability of the Noise Scheme of Assessment (NSoA) and thus were approved at that time. Network Rail confirm that the location of the barriers as shown match exactly the approved locations in the approved NSoA.
- The effectiveness of the mitigation in the NSoA was based on the relative height of the tops of barriers compared to receptors. This was based on the existing ground levels at the time. Sections of the cuttings and embankments had been re-profiled during works. Any permission will clarify that the barriers must be installed exactly as approved **including maintaining the approved heights of the top of the barrier** and distances relative to the receptors.

Otherwise a new assessment must be carried out to check noise mitigation is satisfactory.

- Changes to the size, height, relative position, and composition of the barriers from that previously agreed in accordance with the calculations from the independent expert could compromise their effectiveness and reduce the mitigation.
- She therefore recommended a condition clarifying that nothing in this approval sanctions any departure from the approved NSoA, in particular there is to be no departure from the specified location and height of the barriers relative to the receptors.

At the discretion of the Chair, speakers against and speakers in support of the application were permitted to speak for up to ten minutes per group.

Keith Dancey, Ian Robinson, Mike Lewis, and Michael Drolet, residents living near the railway line, addressed the Committee and explained their concerns about the details of the barriers alongside Quadrangle House and Bladon Close.

Robert Mole, on behalf of Network Rail, spoke in support of the application.

The Committee asked questions of officers for clarification and to satisfy themselves that residents' concerns were adequately addressed and that approving the scheme with the recommended condition fulfilled the requirements of the NSoA.

Amongst other points, officers confirmed that:

- There were permissible tolerances on the final location and size but it was not possible to revisit the approved scheme;
- At 1 Upper Close only the approved location (vertical and horizontal) would provide the required mitigation: any departure from this as a result of permanent changes to the bank would require further assessment.
- At Bladon Close the overlap in the barriers had been shown to be as long as was required to be effective in mitigating noise: Network Rail could not be required to go beyond the requirements of the Noise and Vibration Mitigation Policy or to provide anything additional to that which met their obligations.
- At Quadrangle House the position and function of the barrier was exactly as described and modelled in the NSoA; Network Rail had stated that infrastructure was to be built between the track and barrier location near Quadrangle House.
- The NSoA made clear that mitigation applied only to the interior of buildings not outside spaces, and there were unavoidable limitations to both barriers and insulation.

Notwithstanding the approval of the layout of the barriers under application 15/00956/CND the Committee had two outstanding concerns:

- at Quadrangle House to consider whether the barriers at could be moved further away without compromising their function of mitigating noise for St Peter's Road or compromising the safety and functioning of the railway, as

increasing the gap between barriers and building would improve the amenity of the residents.

- at Bladon Close, to clarify if the gap in the barriers was necessary and if the overlap was sufficient to be fully effective in terms of the NSoA; whether this gap could be closed or the overlap extended to further reduce noise; and how much noise mitigation either of these options would achieve.

A motion to defer decision until all details of compliance and a more aesthetically pleasing barrier design were submitted was not seconded.

A motion to approve the application in part, specifying exclusions, and with conditions as recommended (as set out below) was proposed, seconded and agreed on being put to the vote.

The Committee resolved that in respect of application 15/03110/CND:

Condition 19(13) be partially discharged in relation to the details of the size, appearance and location of the noise barriers in route Section H subject to the following exclusions and conditions:

Exclusions:

1. Quadrangle House:

adjacent to the building, the position of the barrier relative to the building and track be re-evaluated and either

(1) a new location closer to the track be proposed, assessed, and the effectiveness of this (for the appropriate barrier height as specified in the NSoA) in meeting both operational and noise mitigation requirements evaluated and confirmed in writing; or

(2) the current combination of location and height confirmed to be sound and that changing these will have a negative effect (in terms of operational and/or noise mitigation requirements).

Reason: to allow the consideration of options for a suitable alternative location for the barriers in this stretch which improves the amenity of residents without compromising noise mitigation or rail operations

2. Bladon Close:

- a) clarify the reasons necessitating the gap between the barriers in this stretch at its current position and separation between barriers, and why the gap cannot be closed or the overlap extended; and
- b) demonstrate clearly how the agreed gap and overlap will fully meet the requirements of the NSoA; or
- c) if b) is not met or if practicable submit a proposal to close the gap, with the effectiveness of this (for the appropriate barrier height as specified in the NSoA) in meeting both operational and noise mitigation requirements evaluated and confirmed in writing; or
- d) if b) is not met or if practicable submit a proposal to increase the overlap, with the effectiveness of this (for the appropriate barrier height as specified in the NSoA) in meeting both operational and noise mitigation requirements evaluated and confirmed in writing.

Reason: to allow consideration of possible alternatives or to confirm to the local planning authority that the current proposals adequately meets the requirements of the NSoA

Condition

1. development in accordance with plans: nothing in this approval sanctions any departure from the approved NSoA, in particular there is to be no departure from the specified location and height of the barriers relative to the receptors.

The meeting started at 4.00 pm and ended at 5.30 pm